

1 IN THE UNITED STATES DISTRICT COURT

2 DISTRICT OF ARIZONA

3 UNITED STATES OF AMERICA

4 vs.

CR-11-1013-TUC-RCC

5 GHERMON LATEKE TUCKER, et al.,

6 Defendants.  
7 \_\_\_\_\_

8 August 21, 2012  
9 Tucson, Arizona

10  
11  
12  
13 JURY TRIAL

14 DAY TEN

15 BEFORE THE HONORABLE RANER C. COLLINS  
16 UNITED STATES DISTRICT JUDGE  
17  
18  
19  
20  
21

22 Court Reporter: Erica R. Grund, RDR, CRR  
23 Official Court Reporter  
24 405 W. Congress Street  
Tucson, Arizona 85701

25 Proceedings prepared by computerized realtime  
translation

## A P P E A R A N C E S

For the Government: James T. Lacey  
Kimberly E. Hopkins  
Assistant U.S. Attorneys

For Ghermon Tucker: Dan Cooper  
Cooper & Udall PC

For Jerome Ranger: Stephen Jonathan Young  
Williamson & Young

For Ja'Cory Ranger: Bradley James Armstrong  
Armstrong Law Office

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## EXAMINATION INDEX

PHILLIP HOLGUIN

DIRECT BY MR. YOUNG . . . . .	8
CROSS BY MR. LACEY . . . . .	18
REDIRECT BY MR. YOUNG . . . . .	29

1 P R O C E E D I N G S

2 THE COURT: Mr. Lacey wanted to bring  
3 something to my attention.

4 What's that, Mr. Lacey?

5 MR. LACEY: Yes, Your Honor. As to Counts  
6 3 and 4, the gun violations, when you look at the  
7 jury instructions, --

8 THE COURT: I combined the instruction.

9 MR. LACEY: I know you did, but I think  
10 it's confusing, at least it would be to the jury.

11 Two questions. One, you said it  
12 yesterday, and I think missed it. Will they get  
13 indictment and will they get the jury instructions?

14 THE COURT: They'll get the jury  
15 instructions.

16 MR. LACEY: What about the indictment?

17 THE COURT: They can have the indictment.

18 MR. LACEY: I just wanted to make sure.  
19 Okay. Just covering the bases.

20 When you look to counts -- the jury  
21 instruction, the defendants are charged in Counts 3  
22 and 4 of the indictment with possession of a  
23 firearm in furtherance of, you have first, the  
24 defendant committed the crime of conspiracy to  
25 possess with intent to distribute as charged in

1 Count 1 or attempting to possess in Count 2;  
2 second, the defendant knowingly possessed -- then  
3 the weapons; third, the defendant possessed the  
4 firearms in furtherance of the crime of  
5 conspiracy.

6 And I think what we should put in there,  
7 Count 1 should be inserted reference --

8 THE COURT: Add Count 1 by conspiracy?

9 MR. LACEY: Yes. I'm just trying to  
10 keep --

11 THE COURT: And Count 2 by attempt?

12 MR. LACEY: Yes. I'm just trying to keep  
13 it simple.

14 THE COURT: Actually, you're confusing it.

15 MR. LACEY: Well, I'm confusing myself,  
16 but I don't want to confuse the jury.

17 THE COURT: I don't think they're going to  
18 be confused.

19 MR. LACEY: Okay.

20 THE COURT: I really don't.

21 MR. LACEY: Well, I'm just -- I'm a simple  
22 guy.

23 THE COURT: Okay. Mr. Young, you had some  
24 witnesses you were going to call; is that correct?

25 MR. YOUNG: That's right, Your Honor.

1 THE COURT: Are they in the courtroom?

2 MR. YOUNG: They are in the waiting room.

3 THE COURT: Okay. Mr. Cooper, you said  
4 you had no witnesses?

5 MR. COOPER: That's correct.

6 THE COURT: I'll have you rest in front of  
7 the jury.

8 Mr. Armstrong, you said you had no  
9 witnesses. I'll have you rest in front of the jury  
10 also.

11 MR. ARMSTRONG: Thank you.

12 THE COURT: All right.

13 MR. COOPER: I have one quick question.  
14 After the testimony, will there be a slight break?

15 THE COURT: Yes.

16 MR. COOPER: I need a couple of exhibits  
17 from Maureen.

18 THE COURT: Yes, we'll take a slight  
19 break.

20 (The jury enters the courtroom.)

21 THE COURT: Good morning. Show the jurors  
22 returning back to the courtroom, the presence of  
23 all counsel and the defendants.

24 At the conclusion of testimony on Friday,  
25 the Government rested. Is that correct, Mr. Lacey?

1 MR. LACEY: That is correct, Your Honor,  
2 we did.

3 THE COURT: Mr. Cooper, any witnesses you  
4 wish to call at this point in time?

5 MR. COOPER: Your Honor, we rest.

6 THE COURT: Mr. Armstrong?

7 MR. ARMSTRONG: Mr. Ranger rests.

8 THE COURT: Mr. Young?

9 MR. YOUNG: I'll call Phillip Holguin,  
10 Your Honor.

11 THE COURT: All right. Ask Mr. Holguin to  
12 come in.

13 PHILLIP HOLGUIN, WITNESS, SWORN

14 THE COURT: Sir, the Rule has been invoked  
15 in this case. That means, except during the time  
16 that you're testifying, you must remain outside the  
17 courtroom, and you're only allowed to discuss your  
18 testimony with the attorneys involved in the case.

19 Do you understand?

20 THE WITNESS: I do.

21 THE CLERK: Please state your name for the  
22 record and spell your lasts name.

23 THE WITNESS: Phillip Holguin,  
24 H-o-l-g-u-i-n.

25 THE CLERK: Thank you.

1 THE COURT: You may proceed Mr. Young.

2 DIRECT EXAMINATION

3 BY MR. YOUNG:

4 Q. Sir, what kind of work do you do?

5 A. I work in the moving business.

6 Q. And what business do you work for now?

7 A. American Eagle Van Lines?

8 Q. You're currently working for American Eagle  
9 Van Lines?

10 A. Correct.

11 Q. Where were you working March 2nd of last year?

12 A. For First Choice Moving and Storage.

13 Q. And what was your position there?

14 A. I was the sales manager there.

15 Q. Do you know Jerome Ranger?

16 A. I do.

17 Q. Do you see him in the courtroom today?

18 A. Yes, he's over there.

19 Q. And could you tell me what he's wearing?

20 A. He's wearing a blue shirt, oxford shirt.

21 MR. YOUNG: May the record reflect that  
22 the witness has identified Mr. Ranger, sir?

23 THE COURT: He has some glasses; right?

24 THE WITNESS: Yes, sir.

25 THE COURT: Yes, it may so reflect.



1 BY MR. YOUNG:

2 Q. Was Mr. Ranger working for you at that time?

3 A. Yes, he was.

4 Q. He was under your supervision?

5 A. That's correct.

6 Q. How long had you been working at First Choice  
7 Moving at that point?

8 A. I had been working there since June -- no, no,  
9 May of '06.

10 Q. And how long had Mr. Ranger been working  
11 there?

12 A. Maybe since July of '07 or '08. I don't  
13 recollect which year.

14 Q. Had he been working there for a number of  
15 years?

16 A. Yes.

17 Q. Do you recall if he was working the morning  
18 hours March 2nd of 2011?

19 A. Yes.

20 Q. How do you recall that?

21 A. Because he didn't come in the next day.

22 Q. What was his job on March 2nd?

23 A. He's a sales representative.

24 Q. And as a sales repetitive, what does he do?

25 A. He does a lot. They do estimates. They do

1 estimates over the phone, in home, mainly make  
2 phone calls, but you know, at times they, depending  
3 on what time of year, they go out to do, you know,  
4 -- I'm sorry. They go out to do jobs on site.

5 Q. As a sales representative, is he working  
6 hourly or how is he paid?

7 A. No, he's a 1099.

8 Q. By 1099, is that independent contractor?

9 A. That's correct.

10 Q. But he still comes into the office to work?

11 A. Yes.

12 Q. Is there a time card that he gets when he  
13 comes into the office?

14 A. No.

15 Q. Is it possible to look at the work that he's  
16 done and verify that he was actually working on  
17 March 2nd of 2011?

18 A. Yes, it is.

19 Q. I'm going to ask you to take a look at what's  
20 been marked as Exhibit 150. It's not yet admitted,  
21 so it will not be published, and I'll ask you if  
22 you recognize what that is.

23 A. This is a log for accounts that he's pulled.  
24 That's basically a log for -- this is what -- the  
25 leads that he's pulled.

1 Q. How do leads come into the office?

2 A. Well, basically the company purchases leads  
3 from different lead providers online. People go to  
4 web sites, van lines.com, movers.com, et cetera.

5 THE COURT: You have to speak up a little  
6 bit.

7 THE WITNESS: Excuse me.

8 A. People go to online web sites like  
9 vanlines.com or movers.com, and we as a company  
10 purchase them within a certain area that we  
11 service, and they come in, and he's able to pull  
12 them.

13 Q. Now, the parent company that you work for, is  
14 that located in Arizona or is that in a different  
15 state?

16 A. That I currently work for?

17 Q. That you used to work for.

18 A. That is based here in Arizona.

19 Q. That's First Choice Moving?

20 A. That's correct.

21 Q. The leads that they're getting, do they come  
22 from a different state?

23 A. Well, again, it comes from online, so if  
24 someone is trying to move from Arizona, I take it  
25 they just go to vanlines.com, I don't know exactly

1 where they're located or whatever web site,  
2 movers.com or 123movers, and then that company  
3 sends that information to us, to the service areas  
4 that we service.

5 We service Washington -- well, we. Not we.  
6 When I was working for them, that company services  
7 Washington, L.A., Arizona, Colorado, Texas.

8 Q. Maybe I'm confusing the issue unnecessarily.

9 The question I have for you -- well, let's  
10 start out with this. Do you recognize what's been  
11 marked as Exhibit 150 and is now on the Elmo?

12 A. I do.

13 Q. And what is that?

14 A. These are leads that he pulled.

15 Q. And are these leads that he pulled on March  
16 the 2nd?

17 A. Yes.

18 MR. YOUNG: Move to admit Defense 150,  
19 Your Honor.

20 MR. LACEY: No objection.

21 THE COURT: It can be admitted, can be  
22 published.

23 BY MR. YOUNG:

24 Q. And over on the right-hand column, there is  
25 what I see as an open date; is that correct?

1 A. That's correct.

2 Q. And are these leads that Jerome Ranger opened  
3 on March 2nd of 2011?

4 A. That's correct.

5 Q. Now, there's also a time with those leads.  
6 Can you tell me if that is Arizona time or if that  
7 is East Coast time?

8 A. This would be East Coast time because this --  
9 it works off the system, and the system is a Granot  
10 moving system.

11 Q. When you say the system, whose system is that?

12 A. The software system that we have, it's a  
13 moving software that we have called Granot, and  
14 Granot is based on the East Coast, so that would be  
15 East Coast time.

16 Q. And in the wintertime, East Coast time is two  
17 hours off Arizona time; is that right?

18 A. That's correct.

19 Q. So when we're looking at something that got  
20 opened at 10:50, that's East Coast time, so that  
21 would actually be 8:50 Arizona time?

22 A. That's correct.

23 Q. And if we're looking at something that got  
24 opened at 11:57 East Coast time, that would  
25 actually be 9:57 Arizona time?

1 A. That's correct.

2 Q. Does moving having a busy time of the year?

3 A. Yeah.

4 Q. When is the busy time of the year for movers?

5 A. We're coming close to the end of it right now,  
6 but basically the summertime is the busy time of  
7 year.

8 Q. People move during the summer?

9 A. Yes. Kids are out of school. Families are  
10 able to do things around that time.

11 Q. You said that there are a number of things  
12 that the sales representatives do. Can you tell me  
13 if they're sometimes involved in actual moves?

14 A. They are.

15 Q. And how do they become involved in the moves?

16 A. Well, as a company, one of my jobs, one of the  
17 things that I implemented was that our sales  
18 representatives should go out and actually do the  
19 moves.

20 There is a mandatory that they have to at  
21 least do one week a year, but a lot of times,  
22 especially during the slow season, during the slow  
23 season, they go out to do it themselves as  
24 training, to earn money, extra money outside of the  
25 commission that they earn off the sale.

1 Q. So you actually required your sales people to  
2 go out and lift furniture?

3 A. Yes. That's probably the best way in order  
4 for them to understand what happens outside in the  
5 field, so that way, when they talk to a customer on  
6 the phone, the customer knows, well, the  
7 representative knows what the customer is asking.

8 Q. And what do you expect them to learn from  
9 lifting furniture?

10 A. It's not just lifting furniture. They have to  
11 know how to protect it. If there's cabinets that  
12 have glass, they need to know how to protect that.  
13 It's separate from blanket wrapping. They need to  
14 know how to pack items, whether it's a grandfather  
15 clock, which is -- needs to be packed differently  
16 from a regular wooden cabinet.

17 They need to know all that.

18 Q. And you said during the slow season they can  
19 earn extra money by being the actual movers?

20 A. Yes, because they work off commission when  
21 they do sales, but if they go out into the field  
22 and do their own moves -- it doesn't have to  
23 necessarily be their own move. It can be anybody's  
24 move that we're picking up as a company -- they can  
25 earn extra money because it's slow.

1 Q. If a job is their own move, will they  
2 sometimes supervise one of their moves?

3 A. They can.

4 Q. And why would they do that?

5 A. Well, if it's their customer, the customer may  
6 feel -- it's just a little more comfortable, I  
7 guess, for the customer.

8 Q. Are some moves more complicated than others?

9 A. Definitely.

10 Q. Do people tip their movers? Should people tip  
11 their movers?

12 A. Not everybody tips. I believe if the company  
13 does a good job, they definitely should be tipped.

14 Q. So the guys are sometimes working for tips  
15 too?

16 A. Yes. It's customary.

17 Q. Tell me about gloves. Do the movers sometimes  
18 wear gloves?

19 A. Yes.

20 Q. And on occasion would they wear white gloves?

21 A. Yes.

22 Q. And why would they wear white gloves?

23 A. For a number of reasons. One, if it's a dirty  
24 place, we would require everybody to wear gloves.  
25 You know, sometimes people are hoarders. Sometimes



1 people are elderly and they can't look after  
2 themselves but they have pets, and pets -- there's  
3 feces all over the place and urine. We don't want  
4 our movers touching that kind of stuff.

5 Q. Do you have -- did you yourself institute a  
6 white glove service?

7 A. Yes. We think that's a good service to have.

8 Q. And is that something -- is that actually  
9 something that costs extra?

10 A. It is. Basically, when we say white glove  
11 service, you can also call it A to Z service, it  
12 entails everything. If you need -- a lot of times  
13 people need to move fast and they don't want to do  
14 anything. You do everything for them, blanket  
15 wrapping, shrink wrapping, disassembling,  
16 assembling, loading, unloading, everything, taking  
17 things off the walls, packing things, cleaning,  
18 getting the place ready for the new tenants to come  
19 in, absolutely everything.

20 Q. So a clean pair of white gloves would not be  
21 something unusual for your movers to use?

22 A. Definitely not.

23 MR. YOUNG: Can I have just a moment, Your  
24 Honor?

25 THE COURT: You may.

1 MR. YOUNG: That's all I have for this  
2 witness, Your Honor.

3 THE COURT: Mr. Armstrong?

4 MR. ARMSTRONG: Nothing. Thank you, Your  
5 Honor.

6 THE COURT: Mr. Cooper?

7 MR. COOPER: No, Your Honor.

8 THE COURT: Mr. Lacey?

9 MR. LACEY: Yes, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. LACEY:

12 Q. Good morning.

13 A. Good morning.

14 Q. Sir, you've known Mr. Jerome Ranger for how  
15 many years now?

16 A. A lot of years.

17 Q. More than five?

18 A. Yes.

19 Q. Socially as well as work-wise?

20 A. Correct.

21 Q. Fair to say you're friends?

22 A. Yes.

23 Q. What vehicle was Mr. Jerome Ranger driving  
24 back in March of last year?

25 A. He has a couple vehicles. I wouldn't know

1 exactly. Maybe the red truck.

2 Q. Red Ford Expedition?

3 A. Yes.

4 MR. LACEY: We'd ask the witness be shown  
5 Exhibit 61-E, as in Edward, please.

6 THE COURT: If you look at the screen  
7 you'll be able to see what he's talking about.

8 BY MR. LACEY:

9 Q. Sir, it's not the greatest photograph on the  
10 screen, but can you see Mr. Jerome Ranger in this  
11 photograph wearing a dark shirt behind the two  
12 fellows in the front?

13 A. That would appear to be him.

14 Q. And Exhibit 61-D, as in dog.

15 Can you -- if we focus in a little bit, does  
16 that appear also, the fellow in the black shirt,  
17 fourth one back in this picture, appear also to be  
18 Jerome Ranger?

19 A. I can't make it out the best, but I suppose I  
20 would say yes.

21 Q. When he's working for you, what kind of  
22 clothes does he normally wear?

23 A. He can come in -- as long as you've got shoes  
24 on and a shirt and pants, you can --

25 Q. No dress code?

1 A. No.

2 Q. Such as we have around here?

3 A. No.

4 Q. When he's going out and moving for the  
5 company, does he wear a uniform? Does he wear  
6 street clothes? What kind of clothes do the movers  
7 or you all wear?

8 A. There's no uniform.

9 Q. Okay. Would it be fair to say you've seen  
10 Mr. Jerome Ranger in casual attire in the past?

11 A. Yes.

12 MR. LACEY: We'd ask the witness be shown  
13 Exhibit 67-A, please.

14 BY MR. LACEY:

15 Q. Can you identify this person?

16 A. That's Jerome Ranger.

17 Q. And the type of clothes he's wearing, have you  
18 seen him wearing this kind of attire in the past?

19 A. Yes.

20 Q. And 67-B. Can you identify this person for  
21 us?

22 A. That's Jerome.

23 Q. You talked about some phone calls that were  
24 made back in March, on March 2nd of last year.

25 Do you recall that testimony?

1 A. Phone calls?

2 Q. Yeah, from the work -- from the work site  
3 location. The records indicated 8:50:59 in the  
4 morning, if you work on the local time, as opposed  
5 to the eastern time zone; correct?

6 A. That's correct.

7 Q. And the second call was at 9:57 a.m.?

8 A. That's correct.

9 MR. LACEY: We'd ask the witness be shown  
10 Exhibit No. 114, please.

11 BY MR. LACEY:

12 Q. Sir, if you look down at 8:58 in the morning,  
13 do you see that there, 8:58, where there is a  
14 reference --

15 A. I do.

16 Q. And a reference to -- do you know Ja'Cory  
17 Ranger?

18 A. I do. That's his brother.

19 Q. Pardon?

20 A. That's his brother.

21 Q. And do you see him in court also?

22 A. I do.

23 Q. Wearing a blue shirt without glasses?

24 A. He is right there, yes.

25 Q. And sir, at 8:58 in the morning, these records

1 indicate an incoming call to Ja'Cory Ranger from  
2 his brother Jerome Ranger, 8:58?

3 A. Okay.

4 Q. That would be approximately five minutes after  
5 the phone call on your records, is that correct,  
6 about 8:58 versus 8:50, the call from your  
7 business?

8 A. That's correct.

9 MR. COOPER: Judge, I object. I don't  
10 believe there was testimony previously that there  
11 was a phone call in the records. I think he said  
12 he opened, but there was no testimony about a phone  
13 call.

14 THE COURT: The objection is overruled.

15 BY MR. LACEY:

16 Q. And if you look down to the following line, at  
17 9:02 in the morning on March 2nd, did these records  
18 indicate that a phone attributable to Jerome Ranger  
19 called Ja'Cory Ranger at 9:02 a.m.?

20 A. I see.

21 Q. Do you see that?

22 A. I do.

23 Q. I want to direct you down to 9:46. Do you see  
24 that there?

25 A. I do.

1 Q. And do you see there, there is an incoming  
2 call from Jerome Ranger to phone -- to Ja'Cory  
3 Ranger's phone at 9:46 on March 2nd?

4 Do you see that there?

5 A. I see an incoming call, yes.

6 Q. I want to direct the witness' attention to the  
7 next page of the same exhibit, 114, at 10:24 in the  
8 morning.

9 Do you see that at 10:24?

10 A. I do.

11 Q. And that's a phone attributable to Ja'Cory  
12 Ranger calling his brother Jerome Ranger; is that  
13 correct?

14 A. That's correct.

15 Q. And skipping down to 10:26 in the morning,  
16 it'll be an outgoing call, so Jerome Ranger's phone  
17 calling a phone attributable to Ghermon Tucker, and  
18 that's at what time?

19 Do you see that there in brown?

20 A. Yes, at 10:26 a.m.

21 Q. Okay. If you skip down to 10:34 in the  
22 morning on March 2nd, do you see that there, 10:34?

23 A. I do.

24 Q. The phone attributable to Jerome Ranger  
25 calling Ghermon Tucker? Do you see that there as

1 well for a two-minute-and-21-second phone call,  
2 March 2nd?

3 A. I do. I do.

4 Q. Now, you told us about a couple of phones  
5 calls, and I'm not going to go through the rest of  
6 the list with you, that took place at 8:50 and 9:57  
7 in the morning at your business place; correct?

8 A. No. Those were leads that were pulled.

9 Q. Okay. And when you say leads were pulled,  
10 where would the person, Mr. Jerome Ranger,  
11 presumably, based upon those records -- is that  
12 right?

13 A. Correct.

14 Q. Where would Mr. Jerome Ranger had to have been  
15 in order to pull those leads?

16 A. At his desk.

17 Q. Okay. And that's at your business in Phoenix?

18 A. That's correct.

19 Q. At what address?

20 A. 2804 North 29th Avenue, Phoenix 85009.

21 Q. Now, do you monitor activities of your  
22 employees, or are they on their own for whatever  
23 work they want to do or not do?

24 A. I monitor them to an extent. If they're there  
25 at the office, they're there. Usually at around



1 two o'clock I would see what they've done.

2 Q. Okay. Do you know whether or not back on  
3 March 2nd of last year Mr. Jerome Ranger came to  
4 Tucson?

5 Do you know that?

6 A. I do not.

7 Q. Do you have any phone records other than the  
8 two calls you've showed us back on March 2nd from  
9 your business?

10 MR. COOPER: Judge, I object again.

11 There's no testimony they were calls.

12 THE COURT: I'll give you a chance to ask  
13 him questions to clarify.

14 BY MR. LACEY:

15 Q. Let's get that clarified. Those two  
16 references we had to leads at 8:50 in the morning  
17 and 9:57, what does that mean?

18 A. You pull a lead and you'll send an email out.

19 Q. Okay.

20 A. Hello, welcome, thank you for giving First  
21 Choice the opportunity to service your move. You  
22 know, it's a greeting.

23 Q. Okay. And then after that particular phone  
24 call or text message goes out, the greeting, what  
25 happens next, or what happened based upon the

1 records that we looked at a few minutes ago?

2 A. That just shows that he pulled. That record  
3 in particular didn't show anything else except that  
4 he pulled.

5 Q. And how long should it take to pull those two  
6 leads that we talked about?

7 A. Oh, a couple seconds.

8 Q. And then after that, --

9 A. You could send out an email. You could give  
10 the customer a call, if you like. Different sales  
11 people have different techniques, a different way  
12 of handling.

13 Q. Or on occasion other phone calls, as we've  
14 seen from these charts, or engage in other private  
15 activity outside of the business hours, the  
16 business?

17 A. If they wish. They're 1099.

18 Q. And when say "1099," meaning what?

19 A. They are a self-contractor.

20 Q. So if he wants -- somebody goes to your  
21 office, checks in for a few seconds on some leads,  
22 and then leaves and comes to Tucson, do you really  
23 care?

24 A. Yes, to an extent.

25 Q. Well, you said a 1099, which means he's an

1 independent contractor?

2 A. Well, yes.

3 Q. So if they don't work, they don't get paid; is  
4 that right?

5 A. That's correct.

6 Q. If they don't --

7 A. If they don't -- he's a salesperson. If he  
8 doesn't sell something, he's not going to get paid.

9 Q. Okay. I want to direct your attention back to  
10 114 again. Second page. Sorry.

11 Down towards the bottom, at 11:23 in the  
12 morning -- do you see 11:23 there?

13 A. I do.

14 Q. And a phone attributable to Jerome Ranger  
15 calling -- outgoing, calling Ghermon Tucker at  
16 11:23.

17 Do you see that?

18 A. I do.

19 Q. And at 11:25, another phone call by Jerome  
20 Ranger to Ghermon Tucker?

21 A. I do.

22 Q. The first lasting 36 seconds and the second  
23 26?

24 A. That's correct.

25 Q. Have you ever been to the Circle K in Phoenix

1 on -- I think it's Broadway and 16th, roughly,  
2 Circle K in Phoenix, Broadway and 16th Street,  
3 approximately?

4 A. Yes.

5 Q. 14-A.4, please. I know this is not a great  
6 photograph, but 14-A.4, can you identify Mr. Jerome  
7 Ranger in this photograph to the left wearing a  
8 baseball cap, the one you saw later in the day here  
9 in Tucson at a Circle K?

10 A. Yes.

11 Q. Does that look like it's him?

12 A. It's grainy again, but it -- knowing him  
13 enough, that looks like him.

14 Q. I want to direct your attention back to 114-A,  
15 the third page, please.

16 The first number at 11:37 in the morning, do  
17 you see a call from a phone attributable to Jerome  
18 Ranger calling out to Ghermon Tucker at 11:37?

19 A. I do.

20 Q. And again, at 11:40, do you see a phone call  
21 from a phone attributable to Jerome Ranger calling  
22 Ghermon Tucker again?

23 A. I do.

24 Q. Lasting only five seconds. The first one was  
25 54.

1           And again, dropping down to 11:49 in the  
2 morning, do you see another call by Jerome Ranger  
3 to Ghermon Tucker lasting 33 seconds?

4       A.    I do.

5           MR. LACEY:  Nothing further.

6           THE COURT:  Mr. Young?

7                       REDIRECT EXAMINATION

8       BY MR. YOUNG:

9       Q.    Sir, you were just shown some exhibits that  
10 were records of Jerome Ranger's cell phone  
11 records.

12           Would you yourself have any knowledge of  
13 Jerome Ranger's cell phone records?

14       A.    No.

15       Q.    And is that why you were looking kind of  
16 perplexed?

17       A.    Possibly.

18       Q.    Does Jerome Ranger carry a cell phone with him  
19 when he's at work?

20       A.    Most representatives do, yes.

21       Q.    I noticed you carry a cell phone.

22       A.    I do.

23           THE COURT:  It's not on right now, is it?

24           THE WITNESS:  No, I hope not.

25       BY MR. YOUNG:

1 Q. I notice that you're pretty attached to your  
2 cell phone. In fact, you've usually got it in your  
3 hand.

4 A. They were just doing an update this morning,  
5 Verizon was, so --

6 Q. Other people in your office carry a cell phone  
7 as well?

8 A. They do.

9 Q. And is it any surprise to you that Mr. Jerome  
10 Ranger would be talking to his brother, Mr. Ja'Cory  
11 Ranger, on March 2nd or any other day?

12 A. No.

13 Q. You were shown a picture of a Circle K.  
14 Again, a perplexed look.

15 You were not at that Circle K that day; right?

16 A. No.

17 Q. And you were not shopping with Jerome Ranger  
18 that day?

19 A. No.

20 Q. And just so I'm perfectly clear --

21 MR. YOUNG: Can we look at -- could we  
22 publish 150 again?

23 THE COURT: 150?

24 MR. YOUNG: On the Elmo?

25 THE COURT: That's the one you had; right?

1 MR. YOUNG: Yes.

2 THE COURT: Just a second. Let  
3 everybody's monitor catch up.

4 Okay.

5 BY MR. YOUNG:

6 Q. And Exhibit 150, the far right-hand column is  
7 captioned "Open Date"?

8 A. I'm sorry?

9 Q. The far right-hand column --

10 A. Yes.

11 Q. And that is the date that the files are  
12 opened; right?

13 A. And it's the date that he pulled it, yes.

14 Q. That's not necessarily a time that a phone  
15 call was made, is it?

16 A. No.

17 Q. There are also some dates scheduled for  
18 follow-up; is that correct?

19 A. That's correct.

20 Q. And would that follow-up be scheduled by  
21 telephone or by email or do you know?

22 A. That would be set by the representative  
23 himself.

24 MR. YOUNG: That's all I have, Your Honor.

25 THE COURT: Mr. Armstrong?

1 MR. ARMSTRONG: Nothing. Thank you.

2 THE COURT: Mr. Cooper?

3 MR. COOPER: No, Your Honor.

4 THE COURT: If the jurors have any  
5 questions, please place them in writing.

6 It appears there are -- there's one.  
7 Okay.

8 (The following proceedings occurred at the  
9 bench.)

10 THE COURT: "Is this application to pull  
11 the calls available through a smart phone?"

12 "Is it email based?"

13 "Does the company have phones to use to  
14 contact leads, or do they use their own cell  
15 phone?"

16 Okay.

17 (End of bench conference.)

18 THE COURT: I'm not sure if it's  
19 somebody's writing or my eyes.

20 A couple of questions from a couple of  
21 jurors.

22 THE WITNESS: Sure.

23 THE COURT: Is the application to pull the  
24 leads available through a smart phone?

25 THE WITNESS: Some.



1 THE COURT: Is it email based?

2 THE WITNESS: Is it email based?

3 THE COURT: Yes.

4 THE WITNESS: I don't understand the  
5 question.

6 THE COURT: That's the best I can do.

7 THE WITNESS: It's an Internet-based  
8 system.

9 THE COURT: Okay. Does the company have  
10 phones to use to contact the leads, or do they use  
11 their own cell phones?

12 THE WITNESS: No, we have telephones.

13 THE COURT: All right.

14 THE WITNESS: I mean, a person could if  
15 they wished to, if they weren't in the office, call  
16 a customer if they need to or --

17 THE COURT: Speak up so everybody can  
18 hear.

19 THE WITNESS: If you needed to, there's no  
20 rule on where you can call from.

21 THE COURT: All right. Mr. Young,  
22 anything further?

23 MR. YOUNG: Nothing further, Your Honor.

24 THE COURT: Mr. Armstrong?

25 MR. ARMSTRONG: No, thank you.

1 THE COURT: Mr. Cooper?

2 MR. COOPER: No, Your Honor.

3 THE COURT: Mr. Lacey?

4 MR. LACEY: No, Judge.

5 THE COURT: Thank you, sir. You may step  
6 down.

7 Any further witnesses, Mr. Young?

8 MR. YOUNG: I'll rest Your Honor.

9 THE COURT: Any rebuttal?

10 MR. LACEY: No, Your Honor.

11 THE COURT: Let's take about five  
12 minutes. Then we'll come back, and we'll prepare  
13 for closing statements.

14 (The jury exits the courtroom.)

15 THE COURT: And for the record, indicate  
16 that, at the close of the Government's case,  
17 Mr. Young, Mr. Armstrong, and Mr. Cooper each made  
18 a motion for a Rule 29 directed verdict on behalf  
19 of their client, which the Court denied. I believe  
20 it happened at sidebar.

21 And also indicate, at the close of all the  
22 evidence, each attorney again renews that same  
23 motion, which the Court renews its denial thereof.

24 MR. COOPER: Thank you, Your Honor.

25 (Off the record.)

1           (The jury enters the courtroom.)

2           THE COURT: Let record reflect the jury's  
3 returned back to the courtroom, the presence of all  
4 counsel and the defendants.

5           At this point in time we're now going to  
6 begin with closing arguments in this case. You'll  
7 find that the Government will have a chance to  
8 speak to you twice. They'll have an opening  
9 closing argument. They'll have a rebuttal closing  
10 argument.

11           The defense will only have a chance to  
12 speak to you once. That's because the Government  
13 has the burden of proof, not to give them some sort  
14 of unfair advantage.

15           You also may notice people in the  
16 courtroom now who testified earlier in the trial as  
17 witnesses. Now that the case has been concluded  
18 from an evidentiary standpoint, any witness who has  
19 been put under the Rule can now come in and listen  
20 to closing arguments if they wish to do so. So if  
21 you see a familiar face, that's why they're now  
22 allowed to be in the courtroom.

23           What the attorneys have said in their  
24 opening statements, what they're going to say in  
25 their closing statements is not evidence. It's

1 offered to help you understand their interpretation  
2 of the evidence. If they say something and it's  
3 not the way you remember it, it's your memory that  
4 controls, not theirs. I'm sure that neither  
5 attorney will intentionally misstate anything to  
6 you.

7 At this point in time, Ms. Hopkins, on  
8 behalf of the Government, you may begin with your  
9 opening-closing statement.

10 MS. HOPKINS: We've now come to that part  
11 of the trial where the attorneys get to talk about  
12 the evidence that's been presented during this  
13 trial and the law that applies to this case, and  
14 there was quite a bit of testimony and evidence  
15 presented throughout the trial, and it was all  
16 quite voluminous. So on behalf of Mr. Lacey and  
17 I, we thank you for your attentiveness during this  
18 trial and for your copious note-taking that we did  
19 see you do.

20 Now, from the beginning you've known that  
21 this case involves four different crimes. The  
22 crimes are: The first one is conspiracy to possess  
23 with intent to distribute cocaine; attempt to  
24 possess with intent to distribute cocaine; and two  
25 counts of possession of firearms in furtherance of

1 a drug trafficking offense.

2 Now, in this case, the defendants, along  
3 with others, came to Tucson with the intent of  
4 committing a crime. And it doesn't matter that  
5 there wasn't a stash house, and it doesn't matter  
6 that there wasn't any drugs.

7 What matters is, they came to Tucson to  
8 rob what they believed was a stash house that they  
9 believed contained cash and cocaine. Now, let's  
10 take a minute to talk about the evidence. The  
11 evidence consists of testimony that you heard from  
12 the witness stand. It also includes recorded calls  
13 and meetings that you heard, the surveillance  
14 footage that you saw, and exhibits presented during  
15 the case.

16 The Government presented both direct and  
17 circumstantial evidence, and direct evidence is  
18 testimony of witnesses as to what they personally  
19 saw, heard, or did.

20 Circumstantial evidence is proof of one or  
21 more facts from which you could find another fact,  
22 and it's essentially like a puzzle piece. When put  
23 together, they show a fact.

24 Now what did we learn from the evidence  
25 that was presented in this case? And you may want

1 to consider taking notes, because especially when I  
2 refer to exhibits, you can refer back to them  
3 during your deliberations.

4 Now, at the beginning of the trial, you  
5 heard from the source, and he explained how this  
6 case began, and he testified that he was approached  
7 by the FBI, and he was advised to keep his eyes  
8 open regarding anyone involved in home invasions.

9 And in late December, the source had a  
10 discussion with Roberto about home invasions, and  
11 he testified that Roberto said that he used to rob  
12 stash houses and that his friend Chivo had a crew.  
13 Now, in January of 2011, Roberto introduced the  
14 source to Chivo, and the three of them met in front  
15 of a grocery store in Phoenix. And Chivo told the  
16 source that he robs houses, and then the source  
17 told Chivo that he has access to a house in Tucson  
18 that would have cocaine.

19 Now, after the meeting, the source  
20 continued to talk to Chivo by phone, and they  
21 decided to set up a meeting on February 4th, 2011  
22 in Phoenix.

23 Now, that February 4th meeting was at  
24 Chivo's workplace, and Chivo did maintenance work  
25 for a trailer park. The source recorded this

1 entire meeting, and the source testified in detail  
2 about this meeting. And you actually were able to  
3 hear firsthand what happened in that meeting, and  
4 that was at Exhibit 2-A.

5           So what happened at the meeting? Well,  
6 the source arrived at the trailer park, and Chivo  
7 introduced him to Gollo. The source told Gollo  
8 that he rents houses in Tucson for a major drug  
9 trafficker. Gollo said home invasions are his  
10 source of income.

11           So then the men walk into a little room,  
12 and Gollo gets a phone call. And you'll recall the  
13 phone records from February 4th, and that was at  
14 Exhibit 113. The phone chart shows that Mayco  
15 called Gollo six times between 11:34 a.m. and  
16 11:53 a.m.

17           Gollo got a phone call when he was at the  
18 meeting and had a guy on speakerphone, and you  
19 heard a guy ask Gollo, and this was in Spanish, but  
20 you heard him ask Gollo -- and now you can see it  
21 on the screen, and I'll just state again that there  
22 were six phone calls between -- or Mayco called  
23 Gollo six times between 11:34 and 11:53 a.m.

24           So as I was saying, Gollo got a phone call  
25 while he was at the meeting, and he had that phone

1 call on speaker, and the meeting was in Spanish,  
2 and you could hear a guy ask Gollo, "Which  
3 trailer? Which trailer? Are you in a trailer or  
4 not?"

5 And after that last phone call at 11:53 in  
6 the morning, a skinny guy walked into the room, and  
7 that skinny guy introduced himself as Mayco. And  
8 shortly thereafter, a black male entered that  
9 room. Now, the black male wasn't introduced by  
10 name, but the evidence demonstrates that it was the  
11 defendant, Ghermon Tucker. We'll come back to that  
12 in a moment.

13 Now, what did they discuss at this  
14 meeting? Well, you heard that the source said that  
15 65 kilograms of cocaine would be available, and the  
16 source said that there would also be some meth.

17 And he testified that he said that so they  
18 would think that there would be more money to be  
19 made if they went in the stash house.

20 They also discussed how they were going to  
21 split the proceeds. The source was going to get 18  
22 kilograms of cocaine, and Gollo, Mayco, and Chivo  
23 all agreed to that. And during the meeting, Gollo  
24 said that both the Mexican and black males would be  
25 involved, and Gollo also said in Spanish, but you



1 saw the translation, he said, "You just show us the  
2 house and we'll take it from there."

3 Now, you also heard Mayco and a black male  
4 talking to each other in English, and the meeting,  
5 again, was mostly in Spanish, but a few of the key  
6 words, the English words that you heard, were "65,"  
7 "birds," and, "I rent houses." And the source  
8 testified that birds was a code word or another  
9 word for cocaine.

10 Now, back to Ghermon Tucker. How do we  
11 know that he was at the meeting? Well, first his  
12 Cadillac CTS was observed at the meeting location,  
13 and you heard testimony from Special Agent Edwards  
14 that the FBI was conducting surveillance of the  
15 February 4th meeting location, and both ground and  
16 aerial surveillance units were monitoring the  
17 meeting that day.

18 And ground units were tasked with  
19 following the cars from the meeting location to  
20 identify the people at the meeting. And they were  
21 still in the early stages of the investigation at  
22 that point, so they conducted surveillance from a  
23 distance so not to be made and compromise the  
24 investigation.

25 Now, agents followed one or more vehicles

1 after that meeting, and you heard testimony from  
2 Special Agent Howell. He testified that he  
3 followed a Cadillac CTS to a residence on Chipman  
4 Road in Phoenix, and he obtained the license plate  
5 for that Cadillac CTS, and a records check revealed  
6 that that Cadillac belonged to Ghermon Tucker. And  
7 the records did come into evidence for the  
8 registration check for that vehicle, and that was  
9 at Exhibit 51.

10 Second, we know that he was at the meeting  
11 because the source positively identified Ghermon  
12 Tucker as the black male that was present. On  
13 February 14th, 10 days after the February 4th  
14 meeting, the source met with FBI, and Agent Edwards  
15 had obtained a driver's license photo of Ghermon  
16 Tucker, and the source was shown that photo, and  
17 you can see it on your screen right now at Exhibit  
18 4-A.

19 The source identified the person in that  
20 photo as the black male at the meeting. And the  
21 source was able to get a good look at him. He  
22 testified that he was about three to four feet from  
23 Tucker during the meeting. The source also  
24 identified Tucker in court, at trial, as the black  
25 male at that meeting.

1           And the third way that we know that  
2   Ghermon Tucker was at that meeting was through the  
3   phone records. Take a look at Exhibit 113 again.  
4   On February 4th alone, there were 34 calls between  
5   Mayco and the defendant Ghermon Tucker. And if you  
6   remember, Mayco showed up at the meeting at  
7   approximately 11:53 in the morning, and as soon as  
8   Mayco gets off the phone with Gollo, he calls  
9   Ghermon Tucker two times. And you can see that.  
10   It's at 11:54 and 11:55.

11           Shortly thereafter, a black male enters  
12   the room. The phone chart shows that Tucker was in  
13   contact with Mayco minutes before he arrived at  
14   that meeting. Defendant Ghermon Tucker was the  
15   black male at that February 4th meeting.

16           Now, the source testified that he kept in  
17   touch with Gollo and Chivo by phone after that  
18   February 4th meeting, and those calls were recorded  
19   by the source, and they further discussed the home  
20   invasion plan.

21           And the next event that took place was a  
22   February 22nd meeting at Chivo's workplace, and  
23   that was also in Phoenix, at that trailer park.  
24   Also present at that meeting was Gollo, Gollito,  
25   and Andy, and they discussed who would be involved

1 in the home invasion that would take place in  
2 Tucson, but at this meeting, Gollo said that the  
3 black males that he had mentioned earlier were not  
4 going to be involved in the home invasion.

5 Now, after the February 22nd meeting,  
6 additional calls occurred between the source, Gollo  
7 and Chivo and others, and the source recorded these  
8 phone calls also. And you heard a lot of these  
9 calls during trial, so we're not going to replay  
10 them for you. They're Exhibits 30 through 44. But  
11 during these calls they further discussed the home  
12 invasion that was going to take place in Tucson.

13 Now, if you recall, Exhibit 30-A was a  
14 recorded call on February 26 where the source tells  
15 Gollo that he'll text him when the drugs cross.

16 Exhibit 31-A is a recorded call on  
17 February 28 between the source and Chivo, and they  
18 discuss how they're going to split the money and  
19 the cocaine, they talk about the kidnapping that  
20 was to occur and about the -- and that the drugs  
21 would be crossing soon.

22 Now, on the evening of March 1st, the  
23 source began placing calls to Gollo and Chivo, and  
24 Exhibit 32-A is a recorded call on 8:28 p.m. to  
25 Gollo. The source told Gollo they were about to

1 cross the cocaine into the United States through  
2 the Mariposa port of entry.

3 Exhibit 34-A, there's a recorded call at  
4 11:35 p.m. to Gollo, and the source said they had  
5 crossed the checkpoint, and they were on their way  
6 to Tucson.

7 Now, I'd like to turn your attention to  
8 the day of the home invasion, and the source  
9 started making phone calls very early on March  
10 2nd. Exhibit 35-A was a recorded call at 5:18 in  
11 the morning to Chivo. The source asked Chivo what  
12 time the crew was coming to Tucson. Chivo says he  
13 didn't know but he was going to call Andy.

14 Exhibit 38-A is another recorded call at  
15 8:40 in the morning to Chivo, and Chivo tells the  
16 source that Mayco is coming.

17 Now, on the morning of March 2nd, FBI  
18 initiated surveillance, and FBI utilized both  
19 ground units and aerial surveillance planes. They  
20 had two planes up that day. And at approximately  
21 8:40 in the morning, Agents Fernandez and Sharkey  
22 initiated surveillance near the Food City parking  
23 lot.

24 And as you know, the Food City was a  
25 Government predetermined meet location, and the

1 reason that they use that is because it was a  
2 public and neutral meeting spot. So after they met  
3 at the Food City, the plan was to follow the  
4 targets' drive to the warehouse where they would be  
5 subsequently arrested.

6 At approximately nine o'clock in the  
7 morning, agents also initiated surveillance along  
8 I-10 eastbound between Phoenix and Tucson, and  
9 there's a series of phone calls that occur starting  
10 around 9:18 in the morning. And if you take a look  
11 at this phone chart in Exhibit 114, these phone  
12 calls show the chain of events that occurred that  
13 morning.

14 You see that the source contacts Gollo at  
15 9:18 and 9:19 in the morning. Mayco then contacts  
16 defendant Ghermon Tucker at 9:25 in the morning and  
17 9:41. Then defendant Ja'Cory Ranger contacts his  
18 brother, defendant Jerome Ranger, at 9:46, and  
19 Gollo contacts Mayco at 9:56.

20 Now, you also heard testimony from Jorge  
21 regarding the events that took place in Tucson on  
22 the morning of March 2nd, and he testified that he  
23 received a phone call from his brother-in-law  
24 Yovani asking if he wanted to go to Tucson. And  
25 Yovani said that he'd pay Jorge \$2,000, and Jorge

1 needed the money, so he agreed.

2 Now, Jorge learned there was plans to do a  
3 home invasion in Tucson, but Jorge was going to  
4 stay in the car during the home invasion. He  
5 wasn't going to participate other than driving the  
6 Jeep.

7 Now, Jorge testified that he met up with  
8 Yovani at an am/pm in Phoenix, and he jumped in  
9 Yovani's white Jeep Commander. They then picked up  
10 Seco, who you also know is Mayco.

11 Jorge testified that Mayco was talking on  
12 the phone while they were in the car, and Mayco was  
13 saying some words in English and said something  
14 about 50 kilos and dividing it in half.

15 The phone records show that, at  
16 approximately 10:17 in the morning, Mayco contacts  
17 defendant Ghermon Tucker. Then, at approximately  
18 10:20 in the morning, Mayco contacts defendant  
19 Ja'Cory Ranger.

20 At approximately 10:23, Mayco contacts  
21 Gollo. At 10:24, defendant Ja'Cory Ranger contacts  
22 defendant Jerome Ranger. At approximately 10:26,  
23 Jerome Ranger contacts Ghermon Tucker.

24 Now, Jorge testified that Mayco directed  
25 Yovani to a residence near 24th and Broadway in

1 Phoenix, and they arrived at a house. Mayco went  
2 inside the house, but Yovani -- or Jorge stayed  
3 until the Jeep Commander.

4 Jorge observed Mayco talking to black  
5 people in the house, and Jorge also observed a  
6 black Cadillac Escalade in front of the house. He  
7 then observed black males come out of the house and  
8 saw two of them load weapons in the Cadillac  
9 Escalade.

10 He testified that one of the black males  
11 was wearing a long sleeved white T-shirt, had a  
12 limp, and was talking to Mayco. The evidence  
13 demonstrates that the black male with the limp was  
14 defendant Ja'Cory Ranger.

15 Now, Mayco told the black males they were  
16 going to split the drugs, and then Mayco came back  
17 to the car, told Yovani the black guys are going in  
18 the house first. Mayco, Yovani, and Jorge then  
19 left the house, and they made a few stops.

20 Now, if you take a look at Exhibit 115,  
21 this is an important exhibit. At approximately  
22 10:32 in the morning, Ja'Cory Ranger texts Ghermon  
23 Tucker and says, "Hit me ASAP. We going to Tucson  
24 in 30 minutes. Yo people just left me. They  
25 ready."



1           At approximately 10:34 in the morning,  
2 defendant Jerome Ranger contacts defendant Ghermon  
3 Tucker, and they have a conversation for two  
4 minutes and 20 seconds.

5           Now, at approximately 11:05 in the  
6 morning, Agents Howell and Sharman observe a Nissan  
7 Murano driving at a high rate of speed on the  
8 I-10. Now, the next sequence of events to occur is  
9 another series of phone calls.

10           At approximately 11:10 in the morning,  
11 Mayco contacts Ghermon Tucker. One minute later,  
12 Ghermon Tucker contacts Mayco. At approximately  
13 11:12, Mayco contacts defendant Ja'Cory Ranger. At  
14 approximately 11:15, defendant Ja'Cory Ranger  
15 contacts Ghermon Tucker six times. At  
16 approximately 11:21, Mayco contacts defendant  
17 Ja'Cory Ranger. The records show that there was a  
18 lot of phone calls back and forth.

19           Now, Jorge testified he went to a Circle K  
20 in Phoenix with Mayco and Yovani, and he observed  
21 the same Cadillac Escalade that he saw at that  
22 house at the Circle K, and he also saw a red Ford  
23 Expedition, and he said the Escalade and Expedition  
24 were parked together at the gas pumps. He said  
25 that Mayco went over and talked to the black males

1 while Yovani and Jorge stayed in the Jeep.

2           Jorge observed the black males loading  
3 water into their cars. Mayco came back to the Jeep  
4 and said, drive to Tucson. We'll meet up with them  
5 there.

6           Now, Special Agent Edwards obtained the  
7 surveillance footage from that Circle K in  
8 Phoenix. Now, at approximately 11:24 in the  
9 morning, the surveillance footage shows black males  
10 enter the Circle K, and they're buying sodas and  
11 water.

12           At approximately 11:25 in the morning,  
13 defendants Jerome Ranger and Ja'Cory Ranger are  
14 seen entering the Circle K. At approximately 11:28  
15 in the morning, defendant Ghermon Tucker is seen  
16 walking into that Circle K and shaking hands with  
17 Josh Young, and that's at Exhibit 14-A.5.

18           At approximately 11:29 in the morning,  
19 defendant Jerome Ranger is seen buying gloves, and  
20 this is an important exhibit. This is Exhibit  
21 14-A.4. He bought three pairs of gloves, and he  
22 bought these gloves immediately before coming to  
23 Tucson.

24           Now, at approximately 11:47 in the  
25 morning, the source calls Chivo, and that's at

1 Exhibit 42-A. Chivo tells the source that they're  
2 on their way, and the source tells them to exit at  
3 Sixth Avenue at the Food City. Gollito tells him,  
4 "The blacks aren't coming. It's nothing but  
5 Chicanos."

6 Chivo and Gollito are traveling in that  
7 Nissan Murano that blew past the surveillance  
8 agents on the I-10. Shortly thereafter, Special  
9 Agent Fernandez observes that gray Nissan Murano  
10 arrive at the Food City.

11 Now, the next sequence of events is that  
12 the Jeep Commander stops at another Circle K right  
13 outside of Tucson in Marana, and Jorge testified  
14 that, on the way to Tucson, Mayco was talking on  
15 the phone in both English and Spanish, and he  
16 testified that they stopped at a Circle K in  
17 Marana.

18 Jorge observed a sedan pull up, and there  
19 was two Mexican males inside. He testified that  
20 Mayco got in that sedan while Jorge and Yovani used  
21 the restroom in the Circle K.

22 When they were back in the Jeep, Mayco  
23 tells Yovani and Jorge that the guys in the sedan  
24 were going to be the ones who were going to kidnap  
25 the cartel member's son.

1           Now, Mayco is again on the phone, and he  
2 says something to the effect of, keep on going.  
3 I'll tell you where to get off.

4           Again, Special Agent Edwards obtained the  
5 surveillance footage from that Circle K in Marana,  
6 and between 1:18 and 1:30 p.m., the surveillance  
7 footage captures Yovani, Brandon, Andy, and Jorge  
8 entering and exiting that Circle K.

9           Now, at approximately 1:36 p.m., agents  
10 observed the source arrive at the Food City, and  
11 the source testified that he parked across from the  
12 Nissan Murano, and the source told Chivo and Gollo  
13 that he wanted them to come to his workplace, which  
14 is a warehouse, and he wanted to show them a  
15 picture of his cousin and provide details about the  
16 stash house, specifically where the drugs and the  
17 money were going to be located within the house.

18           At approximately 1:39 they're observed  
19 departing the Food City and driving to the  
20 warehouse. Chivo is in the source's car.  
21 Gollito's following behind in the Nissan Murano.  
22 The source is recording the conversation that he's  
23 having on the way to the warehouse with Chivo, and  
24 you heard this recording during trial. It was a  
25 pretty lengthy recording, and it was at Exhibit

1 44-A.

2 Chivo tells the source that Andy came, as  
3 well as all of Mayco's people. He says Mayco's  
4 back at the Food City, and there's about five other  
5 cars. Chivo says, the black guys came, and there  
6 are about five cars. And then he says again, Andy,  
7 Mayco, and the homeboys came.

8 Now, at approximately 1:43 p.m.,  
9 surveillance footage shows Yovani, Mayco, and Jorge  
10 inside the Food City, and you saw those photos.  
11 They're photo stills at Exhibit 110 and 111.

12 Jorge testified also that, when they were  
13 at the Food City, he observed a four-door sedan, as  
14 well as the Expedition and Escalade that he had  
15 seen earlier in Phoenix.

16 Now, at approximately 1:51 p.m., the  
17 source, Chivo, and Gollo arrive at the warehouse,  
18 and the source is still recording the conversation  
19 while they're in the warehouse, and the source  
20 asked Gollito how many guns they have, and  
21 Gollito's response is, we have a shit load.

22 Gollito then says there's 15 to 20 guys  
23 that are coming, and he confirms that Mayco is  
24 here. The source then tells Gollito to go get  
25 Mayco and whoever else he met at that February 4th

1 meeting because he wanted to show them a photograph  
2 of his cousin.

3 Now, at approximately 1:57 a.m.,  
4 surveillance agents observed Gollito getting in his  
5 Nissan Murano and departing the warehouse, and at  
6 2:04 p.m., the Murano arrives at the Food City and  
7 picks up Andy Pineda.

8 And at approximately 2:05, the Murano  
9 drives to another location within that Food City  
10 parking lot and picks up Yovani and Mayco, and the  
11 phone records will show around that same time Mayco  
12 contacts Ja'Cory Ranger on the phone.

13 Now, let's take a look at Exhibit 29. And  
14 this is another important exhibit. At  
15 approximately 2:05, the aerial surveillance plane  
16 is following the Nissan Murano within the Food City  
17 parking lot, but this photo still also shows the  
18 red Expedition, the black Cadillac Escalade, and  
19 the white Jeep Commander in close proximity to each  
20 other.

21 Now, at approximately 2:06 p.m., the  
22 agents observe the Murano depart the Food City, and  
23 Jorge testified that he stayed in that Jeep  
24 Commander while Mayco and Yovani left the Food City  
25 to apparently check out the place.

1           Now, during this time, Chivo and source  
2 are still talking at the warehouse, and Chivo tells  
3 the source that he thinks the black guy that Mayco  
4 brought to the 2/4 meeting is also here in Tucson.

5           And Chivo said, those people are the ones  
6 who have the guns, and they are the guys who have  
7 the vests. Chivo said Mayco told him, we're all  
8 here, and everyone is parked at the Food City.

9           Now, at approximately 2:15 p.m., agents observed  
10 the Murano arrive back at the warehouse, and the  
11 occupants go inside.

12           Now, even though the Murano had left,  
13 surveillance agents are still watching the Food  
14 City parking lot, and at approximately 2:19 p.m.,  
15 Special Agent Sharman observes additional vehicles  
16 in that parking lot, and he's directed to drive  
17 into that lot, and he takes photographs.

18           Now, you'll remember he testified that he  
19 observed a red Ford Expedition and a black Cadillac  
20 Escalade parked next to each other in the lot, and  
21 he said that he observed multiple black males in  
22 each vehicle. And you saw these photographs. This  
23 one is Exhibit 57-A, and you also saw Exhibit 57-B.

24           He testified that those vehicles stood out  
25 to him. He observed one of the occupants hanging

1 out of the window, banging on another vehicle's  
2 window, and he also testified that they were just  
3 hanging out, and they didn't appear to be leaving  
4 any time soon.

5 Now, let's shift gears back to the  
6 warehouse. The source shows Chivo, Gollito, Mayco,  
7 Andy, and Yovani the photo of his cousin, and you  
8 saw this photograph in Exhibit 46. Mayco then  
9 takes this photograph and puts it in his pocket.

10 The source then draws a map and points out  
11 where the money and the drugs are going to be  
12 located within the house, and you saw this in  
13 Exhibit 47.

14 Now, after everyone was briefed on the  
15 plan at the warehouse, the SWAT team entered the  
16 warehouse and arrested everyone, and at  
17 approximately 2:24 p.m., Chivo, Andy, and Yovani  
18 are arrested inside the warehouse.

19 But Gollito and Mayco ran out of the  
20 warehouse and broke through a glass door as they  
21 were trying to get back to the Murano. But the  
22 SWAT team ended up arresting both of them outside  
23 of the warehouse.

24 Somehow before getting arrested Mayco was  
25 able to place a phone call to a family member in



1 Phoenix. When arrested, Mayco had the photograph  
2 of the source's cousin in his pocket, and a map of  
3 the stash house was found later on the floor of the  
4 warehouse near where Mayco had been inside.

5 And you'll remember it was important for  
6 Mayco to have that photograph and the map because  
7 he was going to show it to the black males before  
8 they entered the house, and you'll remember that he  
9 said that the black males were going to enter the  
10 house first.

11 Now, the source testified that,  
12 immediately after the arrest at the warehouse, he  
13 tried to get in contact with Special Agent  
14 Rubicalva and Special Agent Edwards, and he told  
15 them that there were more guys at the Food City.

16 And at the same time, Special Agent  
17 Edwards received a phone call from Special Agent  
18 Kent Hush advising him also that there were more  
19 cars at the Food City.

20 Now, Jorge's still back at the Food City.  
21 He's waiting in the Jeep Commander, and he goes to  
22 the bathroom inside the store. And on the way out,  
23 he bumps into Mayco's brother-in-law, and the  
24 brother-in-law tells Jorge that Mayco had been  
25 caught or stopped. You remember he said both

1 words. He couldn't remember which one it was.

2 Jorge at this point is scared and he  
3 doesn't know what to do, and so he decides to head  
4 back to Phoenix, and he walks back to the Jeep  
5 Commander, and as he's passing the black males in  
6 the Expedition and the Escalade and in another  
7 vehicle, he tells them, they got caught. Jorge  
8 testified that the driver of the black Escalade  
9 heard him say that. So Jorge leaves the Food City,  
10 and he makes a stop nearby.

11 At approximately 2:30 p.m. surveillance  
12 agents observe that the Escalade and the Expedition  
13 are still parked in the Food City lot, and they  
14 remain in that Food City parking lot for some time  
15 after the Mexican males had been arrested at the  
16 warehouse.

17 And you have to think to yourself, why did  
18 they stay at that Food City parking lot? Well,  
19 they didn't know where the stash house was located,  
20 and they were waiting to find out, to get that  
21 information.

22 Mayco didn't come back to that Food City,  
23 and the black males didn't know what to do at that  
24 point. At approximately 2:34 p.m., the Expedition  
25 and the Escalade leave the Food City and arrive at

1 a Circle K, which is the one right down the street  
2 off of Congress.

3 FBI aerial surveillance is following them  
4 and so is -- ground surveillance is also in place  
5 at the Circle K. And you heard testimony from  
6 Agent Sharkey who said he was positioned in a dirt  
7 lot across from the Circle K.

8 At approximately 2:44 p.m., the aerial  
9 surveillance agent observed Ghermon Tucker using a  
10 pay phone at the Circle K. And this is another  
11 important exhibit. It's 62-A.1.

12 Now, Special Agent Edwards obtained the  
13 phone records from these pay phones, and you'll  
14 notice that there was three calls made to Mayco's  
15 telephone at this time. And that -- the phone  
16 records for the Circle K pay phones are at Exhibit  
17 13.

18 Ghermon is trying to get in touch with  
19 Mayco to find out where the house is, but Mayco's  
20 not able to answer his phone because he's already  
21 been arrested at the warehouse. Aerial  
22 surveillance then sees Ghermon Tucker walking from  
23 the pay phones back to the Expedition.

24 At around this same time Jorge is driving  
25 the Jeep Commander, and he's on the I-10. He

1 testified that he saw that Mayco's brother-in-law  
2 got pulled over by highway patrol and he got  
3 scared, so he said that he gets off at Congress and  
4 pulls into that Circle K.

5 He happens to see that same Escalade and  
6 Expedition at the Circle K. He testified they were  
7 the same vehicles that he saw in Phoenix and at the  
8 Food City parking lot.

9 At approximately 2:47 p.m. Special Agent  
10 Sharkey observed occupants of the Expedition and  
11 Escalade talking to an occupant in the Jeep, in the  
12 vehicle, the white Jeep Commander. And Sharkey  
13 testified there was a lot of vehicles in that  
14 parking lot and a lot of people there, but he was  
15 focusing on that Expedition, and he only took  
16 photographs of that Jeep because there was  
17 interaction between the black males and the  
18 occupant of that Jeep Commander.

19 Now, remember Jorge testified that the  
20 black males came up to the Jeep, so he rolled the  
21 window down. And he testified that the black males  
22 asked him, what happened? What do we do?

23 Jorge told them, he got caught and he was  
24 going home. He was going back to Phoenix. But the  
25 black males didn't believe Jorge, and they said

1 something to the effect of, man, whatever, let's  
2 go.

3 Now, the surveillance log states that the  
4 occupant of the Jeep was a black male. The agents  
5 were wrong. The occupant was not a black male. It  
6 was Jorge. And you could see this in Exhibit  
7 61-G. Sharkey took photographs at that Circle K,  
8 and you'll see those -- and if we could put that on  
9 the screen, that's 61-D and 61-E.

10 Now, Special Agent Edwards identified the  
11 black males that are standing outside of this Jeep  
12 Commander, and he identified them as Josh Young.  
13 He identified the person in the white shirt talking  
14 on a cell phone as the defendant Ghermon Tucker and  
15 the male in the dark T-shirt as Jerome Ranger.

16 At approximately 2:50 and 2:57 p.m.,  
17 defendant Ghermon Tucker contacts Mayco, and at  
18 approximately 2:57 p.m., the Escalade and  
19 Expedition are seen departing the Circle K., and  
20 both ground units and aerial surveillance units are  
21 still following them.

22 The Expedition and the Escalade initially  
23 head west on I-10 towards Phoenix. At  
24 approximately 2:59, Ghermon Tucker places another  
25 call to Mayco. Then the vehicles are observed

1 exiting at Prince Road, and they make a u-turn, and  
2 they come back eastbound on I-10.

3 At approximately 3:05 p.m., Ghermon Tucker  
4 contacts Mayco again, and at approximately  
5 3:12 p.m., the Expedition and the Escalade return  
6 to the Food City lot, and they're observed circling  
7 the Food City lot. They're still looking for  
8 Mayco, and they're determined to find out where the  
9 stash house is located, but they can't reach Mayco,  
10 and they can't find any of the Mexican males that  
11 they've been in contact with or that they saw  
12 earlier at the Food City.

13 At approximately 3:15, the Expedition and  
14 Escalade depart the Food City and head westbound on  
15 I-10 towards Phoenix, and at approximately  
16 4:13 p.m., the Expedition and Escalade are stopped  
17 by BORTAC agents on I-10 west of mile marker 194  
18 near Casa Grande. And as you heard the BORTAC  
19 agents testify, they called the occupants out of  
20 the vehicle, one by one.

21 So let's talk about the Escalade for a  
22 minute. The defendant Ja'Cory Ranger was the  
23 driver and registered owner of the Escalade, and  
24 you'll recall this picture as Exhibit 74-B. Also  
25 in the Escalade were Rashad McCuin, Joshua Young,

1 Tyrees Seymour, and Jeremy Tucker. And that's  
2 another photograph of Ja'Cory Ranger.

3 Agents seized five weapons from that  
4 Escalade. They seized a Colt AR-15 that was found  
5 in the trunk, and that's Exhibit 76-A. They found  
6 an AK-47 in the trunk, Exhibit 77-A. A Kel-Tec  
7 AR-15 was found in the trunk. A Colt .357 caliber  
8 handgun was found in the glove compartment, and a  
9 CZ 75 nine millimeter handgun was found also in the  
10 back of the Escalade. All of these guns were  
11 loaded.

12 They also seized a pair of black gloves  
13 and a white, green, black, and brown glove, as well  
14 as a black ski mask, and you saw those exhibits,  
15 Exhibits 16 through 20.

16 Now, let's talk about the Expedition for a  
17 second. Defendant Jerome Ranger was the driver and  
18 registered owner of that Expedition. Defendant  
19 Ghermon Tucker was the front seat passenger in the  
20 Expedition. Also in that vehicle was Ardawnn  
21 Bryant and Damond Reagan.

22 Agents seized three handguns from that  
23 vehicle and two bulletproof vests. A Ruger nine  
24 millimeter handgun was found in the center console  
25 of the Expedition, and you can see that in Exhibit

1 75-I. A Glock 17 handgun was found in the back  
2 seat of the Expedition, and that's 75-D. A Taurus  
3 .45 caliber handgun was tucked between the rear  
4 seats of the Expedition, and that's in 75-F and  
5 75-G.

6 Now, all of the guns in the Expedition  
7 were loaded also, and the two bulletproof vests  
8 that were found, they were found on the floor of  
9 the Expedition behind the driver's seat.

10 They also seized three pairs of white  
11 gloves, the same white gloves that Jerome Ranger  
12 was seen purchasing at the Circle K in Phoenix  
13 immediately before he came to Tucson, and he also  
14 found a pair of black gloves in the Expedition.

15 Now, I have summarized the evidence that  
16 was submitted in this case, and the evidence is  
17 clear that, on March 2nd, 2011, the defendants came  
18 to Tucson to rob what they thought was a stash  
19 house.

20 And the evidence is clear that the  
21 defendants believed that the house contained  
22 cocaine and cash, and the evidence is also clear  
23 that the defendants possessed an arsenal of weapons  
24 to protect themselves and to do the job  
25 successfully.



1           The defendants conspired with others to  
2 possess with intent to distribute cocaine, as  
3 charged in Count 1; the defendants attempted to  
4 possess with the intent to distribute cocaine, as  
5 charged in Count 2; and the defendants possessed  
6 firearms in furtherance of a drug trafficking  
7 offense, as charged in Counts 3 and 4.

8           That's the evidence. Please look at the  
9 evidence, and please consider it. And I submit to  
10 you that, after you've looked at all the evidence,  
11 that you will find that the Government has proven  
12 that the defendants are guilty of Counts 1 through  
13 4, as charged.

14           Thank you.

15           THE COURT: Mr. Cooper?

16           MR. COOPER: Thank you, Your Honor. Your  
17 Honor, do you know how to turn this on?

18           THE COURT: Do I know how to turn it on?  
19 No, I don't.

20           MR. COOPER: I've spent all of my adult  
21 life being a lawyer speaking for other people. I'm  
22 proud to do it. I'm proud to be standing in front  
23 of you now. I've considered it to be an honor,  
24 really an honor, and I'm proud to stand on behalf  
25 of Ghermon Tucker.

1           Ghermon Tucker is not guilty. The  
2 Government wants you to convict him based on the  
3 testimony of a known liar who did everything he  
4 could to avoid being charged in this case and on  
5 Ghermon's presence in Tucson in a car with guns.

6           Think for just a second about Jorge  
7 Medina. Ghermon did exactly what Jorge Medina did  
8 in this case, exactly, except Ghermon never  
9 admitted he committed a crime, because he did not.  
10 Otherwise, their behavior was the same. Jorge  
11 Medina was never charged with anything, even after  
12 admitting to participating in this conspiracy.

13           Before talking about the evidence --  
14 before talking about the facts in this case, I'd  
15 like to discuss with you an instruction you're  
16 going to get from Judge Collins in a little bit,  
17 and keep it in mind as we go through talking about  
18 the facts.

19           The instruction defines conspiracy. You  
20 folks decide the facts. Judge Collins gives you  
21 the law, and you apply the law to those facts. The  
22 conspiracy law, I'm not going to read all of it to  
23 you, but the important parts of the conspiracy law  
24 are that, first, beginning December 29th of 2010  
25 until March the 3rd of 2011, there was an

1 agreement, and the Government has to prove there is  
2 an agreement and that Ghermon was part of that  
3 agreement, between two or more persons to commit  
4 possession with intent to distribute cocaine, as  
5 charged in the indictment;

6 And second, the defendants became members  
7 of the conspiracy knowing of at least one of its  
8 objects and intending to help accomplish it;

9 And third, one of the members of the  
10 conspiracy performed at least one overt act, one  
11 overt act for the purpose of carrying out the  
12 conspiracy and agreement.

13 Juries decide cases based on the evidence,  
14 based on the facts that you hear in court. Let's  
15 look at the facts. Let's start where the case  
16 began, with Tony Gutierrez. In the fall of 2010,  
17 he's working, he says, making 75-80,000 a year, as  
18 a supervisor of janitors, and I think he said he  
19 had 50-60 janitors he was supervising.

20 I guess that wasn't enough money for him,  
21 because he supplemented his income for over 10  
22 years, at the time this case began, for over 10  
23 years as an informant for the Government.

24 Just by happenstance, he had a meeting  
25 with one of his employees who said something to the

1 effect of, I don't like to work. I'd rather be  
2 dealing drugs like I used to, something to that  
3 effect, I don't really like to work that much.

4 Tony, who was working at the time and was  
5 in about his fifth or sixth year with the FBI, ran  
6 with it and ran back to Agent Rubicalva, his  
7 handler, and said, hey, I got something, let's get  
8 going.

9 Now, let's talk about Tony. The judge is  
10 also going to instruct you about him, and what  
11 Judge Collins is going to tell you once the lawyers  
12 are finished arguing is that you have heard  
13 testimony from Antonio Gutierrez, a witness who  
14 received compensation from the Government in  
15 connection with this case.

16 For this reason, in evaluating the  
17 testimony of Antonio Gutierrez, you should consider  
18 the extent to which or whether his testimony may  
19 have been influenced by this factor. In addition,  
20 you should examine the testimony of Antonio  
21 Gutierrez with greater caution than that of other  
22 witnesses.

23 Well, what's one of the first things that  
24 Tony Gutierrez told you when he testified? He  
25 admitted he's good at lying, and apparently that's

1 one of the job descriptions for an informant.

2 He also admitted he'd been paid \$320,000  
3 over the course of 12 years in his side job as a  
4 Government informant and \$110,000 total in this  
5 case.

6 He also admitted he'd been arrested in  
7 2003 while he was working as an informant for  
8 another agency, for the DEA, in Albuquerque, while  
9 traveling to Philadelphia with 50 pounds of  
10 marijuana.

11 And what happened to this drug smuggler in  
12 Albuquerque? Nothing. So you certainly could  
13 assume that he plays both sides, couldn't you?

14 You know, one of the problems with  
15 Gutierrez is that he mixes up fact and fiction, and  
16 let me give you just one example, because I've got  
17 a lot to talk to you about, and I don't want to  
18 spend too much time giving you examples of  
19 Gutierrez's problems with his testimony.

20 One -- just one example. When he was  
21 questioned, he was asked specifically, do you get  
22 paid cash by the FBI? He answered specifically, I  
23 get a check. I got a check in this case. I didn't  
24 get cash in this case.

25 Well, we knew that was wrong, and in fact,

1 the Government knew that was wrong. And Agent  
2 Edwards got up and testified honestly and said,  
3 well, you know, he did get a check. He got a check  
4 for his moving expenses for 30,000 or \$35,000, but  
5 I handed him \$70,000 in cash.

6 I don't know about you folks, but if  
7 somebody handed me \$70,000 in cash, I would  
8 remember it forever. It ain't going to happen, but  
9 I would remember it forever.

10 But here's the Government informant, who's  
11 conducting some pretty serious business with  
12 people's lives on the line, who can't even remember  
13 that Agent Edwards handed him \$70,000 in cash.  
14 Think about that.

15 You know, and I'll get off the amount of  
16 money that this guy has been paid, but when you  
17 listen to Judge Collins's instruction, I want you  
18 to think of something. The Government is allowed  
19 to do this. The Government is the allowed to pay  
20 this guy. And in this case, they found a guy who  
21 had been working in this capacity for a long time.  
22 If I offered somebody money, a witness, to testify,  
23 I'd be going to jail, period.

24 So Tony gets started on the case and gets  
25 wired. There is a key fob wire, there's various

1 wires, and he's tape recording what's going on.

2 For the most part, for the most part, the  
3 recordings that he makes are of the Mexican side of  
4 the case.

5 He's dealing primarily through the month  
6 of February with Gollo, with Chivo. February 4th  
7 he meets this guy Mayco. Let's remember as you go  
8 through and as the Government talks to you about  
9 the recordings made by the informant Gutierrez,  
10 none of the black guys are on these recordings.  
11 This is a deal with the Mexican guys, with Gollo  
12 and Chivo talking about, with the informant, we're  
13 going to go rip off drug dealers.

14 It's not like they're going into a home  
15 where you and I live, honest, law-abiding  
16 citizens. They planned to rip off drug dealers.  
17 And there's a reason for that. One is, there's lot  
18 drugs in those homes; and two, those are people  
19 that probably aren't going to want to call the  
20 police on them. So they go into a place where  
21 there's a lot of drugs, a lot of drug dealers, rip  
22 them off, and those are the conversations going on  
23 between Gollo and Chivo.

24 Most of the recordings that you hear  
25 aren't really relevant to much of anything except

1 that three of the main players, three of the main  
2 Mexican players, are talking about black guys. And  
3 this is after the February 4th meeting. Okay?

4 And what they are saying, Chivo, no blacks  
5 are coming.

6 February 22nd, Gollo says, I'm not going  
7 to take niggers.

8 And in response, in response, what the  
9 informant says is, yeah, the blacks are fucking  
10 liars. Those are his words.

11 And you know, throughout -- throughout  
12 these tapes, you have that kind of language. And  
13 you know, Gutierrez when he's up on the stand says,  
14 oh, yeah, I have to pretend. I have to pretend to  
15 be like them. It wasn't pretend. That's who he is  
16 and what he thinks because some of the language he  
17 uses and some of the responses of these people  
18 weren't necessary. They were just gratuitous  
19 bigotry showing who he is. He didn't have to say,  
20 yeah, the blacks are fucking liars.

21 You know, let's talk about the February  
22 4th meeting, because there really are two main  
23 dates in this case, February 4th and March 2nd.  
24 The February 4th meeting was to be a planning  
25 meeting -- that's what we were told. That's what



1 Gutierrez said. That's what the evidence is -- of  
2 people to be involved in what Gutierrez said was  
3 going to be a ripoff. Five people are present: the  
4 informant; Chivo; Gollo; Seco, who's also Mayco;  
5 and a black man.

6 Here's what's important. If this is a  
7 planning meeting where you're going to plan a  
8 serious drug invasion of a home of drug dealers  
9 where there might be weapons, you've got testimony  
10 from the informant, from the snitch, that at least  
11 four of the people at the meeting spoke English,  
12 and possibly the fifth person as well.

13 So if all these people speak English, and  
14 the black guy doesn't speak Spanish, and we know  
15 that because the four Spanish speakers at the  
16 meeting repeatedly were talking about monkeys and  
17 niggers and blacks and they're liars, so you can  
18 assume that the black guy didn't speak Spanish.  
19 They wouldn't speak that way in front of him if he  
20 did.

21 So if in fact -- if in fact this was a  
22 planning meeting and you want to plan an invasion  
23 and have black guys to act as police or whatever,  
24 why don't you speak in a language where they can  
25 understand the plan?

1           You know, maybe it was Ghermon there.  
2   Maybe it wasn't. All I can tell you is this. The  
3   snitch says the black guy is from Tucson, and he  
4   was contradicted when he testified about whether or  
5   not the black guy he saw had braids coming down,  
6   clearly contradicted, because one of the things  
7   that he testified to was he didn't see any hair  
8   because the guy had a cap on, and then he changed  
9   his story and said, yeah, yeah, I saw the braids  
10   coming down.

11           And I caught them, and I pointed it out,  
12   and I impeached him with it, and "impeachment"  
13   means you catch him in an inconsistency, and he had  
14   no answer for that, none. He was making it up as  
15   he was going along.

16           Regardless, let's talk about why we don't  
17   have pictures, because the FBI had seven agents  
18   watching this. Not only seven agents, they had an  
19   airplane up in the air taking photographs of it.

20           And we've seen from testimony about other  
21   aspects of the case that the FBI has the ability to  
22   take pictures from long range, so why do we not  
23   have a single photograph of anybody walking into  
24   that meeting on February 4th? There's no good  
25   reason, none.

1           If they wanted to know exactly who was  
2 there, they should have had those photographs, and  
3 could have. Whatever reason they gave -- there's  
4 seven agents. They've got the photographs from  
5 above. They've got agents all around that park.  
6 They've got ground photos. They've got aerial  
7 photos.

8           They even have the wrong address on the  
9 surveillance log. The address of the meeting was  
10 8218 South Seventh Street. The community center,  
11 536 South Fifth Place. Well, maybe that really is  
12 where the surveillance got started, but you would  
13 think that at some point in the surveillance log  
14 they would put the correct address of where they  
15 were watching this meeting take place, and it ain't  
16 there.

17           And you'd think they'd be able to take a  
18 picture of people walking in and out since they  
19 knew in advance that this meeting was going to take  
20 place. And now they want to say it was Ghermon  
21 Tucker at the meeting because his car was there.  
22 Well, Mayco's car wasn't there. Mayco was driving  
23 a car registered to somebody named Juan Martinez,  
24 and the Government is certain Mayco was there.

25           And where does this car belonging to

1 Ghermon Tucker go after this meeting? To an  
2 address on Chipman that has been identified as  
3 being the address of a black guy named Miami;  
4 right?

5 And you've got a snitch who knows he's  
6 wearing a wire, who's in a meeting talking almost  
7 all in Spanish, where it's supposed to be planning  
8 meeting. And ask yourself this. Tony hardly  
9 speaks any English in the meeting, maybe 40 words  
10 or so. He turns to the black guy and says, well,  
11 65 birds, something like that. If the black guy is  
12 there to plan, why not speak to him in English?

13 The guy's a professional informer. Why  
14 not say to him in English, because he knows the FBI  
15 is listening, hey, man, you black guys are the guys  
16 that are going to bust in the place with guns and  
17 rip off the cocaine; and the black guy there says,  
18 yeah, I can't wait to do it, that would be really  
19 fun; and Tony says in English, yeah, we're going to  
20 have a lot of money, we're going to make about a  
21 million dollars, we'll split it in half, all in  
22 English, all down pat, all on tape, none of which  
23 was done because the black guys weren't supposed to  
24 be part of this to begin with.

25 Ghermon was there, the black guy was

1     there, whoever was there, not to be part of a plan,  
2     because they all spoke English, and if he was  
3     planning something, you'd speak in the language he  
4     understood.

5             So we go through the month of February,  
6     and we have the -- sort of the arguments between  
7     the Mexican guys that the niggers aren't coming.  
8     Okay. And why would the niggers need to come? You  
9     know, they've got six or seven bad Mexican guys  
10    ready to do this who have weapons themselves. Why  
11    are they going to split this money? They don't  
12    need to. And they're saying all along the black  
13    guys aren't involved.

14            And as we go along, remember, at this  
15    point, is there any evidence that you have heard  
16    that there's an agreement? There's a February 4th  
17    meeting almost all in Spanish, but there is no  
18    evidence of an agreement. You have at least the  
19    three main guys saying the black guys aren't  
20    coming.

21            Now let's jump ahead to March the 2nd.  
22    Okay? Jorge Medina. Jorge Medina basically is the  
23    key to the Government's case. Let's talk about  
24    Mr. Medina's honesty, what we know about it, okay,  
25    because if the Government's going to present this

1     guy, we need to know a little bit about him and  
2     whether he's an honest witness we can trust.

3             First, we know he has a prior conviction  
4     for giving false information to a police officer.  
5     Second -- now, you saw him. You saw his demeanor  
6     on the witness stand. He wasn't even embarrassed  
7     to admit that he lies to his wife when he goes out  
8     with his buddies chasing women. You would think he  
9     would show just a touch of embarrassment. Not  
10    even.

11            Third, March 2nd, the day he's involved,  
12    when he's stopped by Officer Reeves, what's the  
13    first thing he does to Reeves? He lies to him.  
14    Where are you going? I'm going to Tucson to visit  
15    my mom.

16            Okay. So we've established he's a liar,  
17    but the Government still needs to use him. Okay.  
18    But again, Judge Collins over here is going to  
19    instruct you, and he's going to tell you, the  
20    testimony of Jorge Medina was given in exchange for  
21    a promise by the Government that the witness will  
22    not be prosecuted.

23            In evaluating the testimony of Jorge  
24    Medina, you should consider the extent to which or  
25    whether his testimony may have been influenced by

1 this factor. In addition, in addition, you should  
2 examine the testimony of Jorge Abel Medina with  
3 greater caution than that of other witnesses.

4 He's been given a pretty good get out of  
5 jail free card. You know what? The guy had to lie  
6 to save his neck, period. And what's one of the  
7 first thing he does after March 2nd? He flees. He  
8 leaves. He runs to Mexico.

9 He knew he was going to get nailed, and he  
10 had to put someone else's neck in the noose. And  
11 how much time did he have to figure that out? He  
12 said he didn't even come back until January of  
13 2012.

14 And throughout that time, Yovani  
15 Valenzuela, his brother-in-law, was out of jail,  
16 charged but not in jail, and he admits they talked,  
17 and he admits that, when he came down on February  
18 15 to talk to the FBI, he drove down with Yovani  
19 Valenzuela.

20 And what does the Government do with this  
21 man who has admitted, I am participating. I am  
22 participating in a crime. I'm just going to be the  
23 driver, but I'm participating. The Government  
24 says, if you cooperate with us, we will not charge  
25 you with a crime. Folks, if Jorge Medina says the

1 sun is shining, bring an umbrella.

2 Here's the question before we get into the  
3 facts of what Medina has said to you. Would you  
4 trust the word of Jorge Medina in matters of  
5 importance to you? Think about that one.

6 Impeachment means showing inconsistency or  
7 being demonstrated that you are loosey-goosey with  
8 the truth. Impeachment is when I catch, for  
9 instance, Tony Gutierrez saying, I never got cash,  
10 and Edwards comes on and says, yeah, I handed him  
11 cash.

12 That means he's been impeached. He's been  
13 shown to be either not truthful or inconsistent.  
14 You can't impeach a man who is telling the truth.  
15 You can't shake him. You can't wiggle him around.  
16 Medina, shake and wiggle. He's as crooked as a  
17 dog's hind legs, and when you sleep with a dog, you  
18 get flees. And this is the person upon whose  
19 testimony the Government wants you to convict these  
20 people.

21 Let's look at his testimony. One of the  
22 first things he told you is that Yovani Valenzuela,  
23 his brother-in-law, calls him early in the morning  
24 on March 2nd, just out of the blue, out of the  
25 blue. Think about that. Gosh, Jorge, Cochi, you



1 want to do a home invasion with me? You don't have  
2 to do anything but be the driver, but come on, come  
3 with me, out of the blue.

4 And apparently he wasn't at home with his  
5 wife and kids because he'd been out chasing women  
6 the night before. He was at the home of a friend.

7 And what does he say about Valenzuela?  
8 Right from the start, what does he tell you? I  
9 knew Yovani had been doing a bunch of home  
10 invasions, so it really didn't surprise me when he  
11 called me and asked me to be the driver of a home  
12 invasion.

13 Okay. Just because you're on a jury  
14 doesn't mean you leave your common sense outside  
15 the courtroom. Think about it. Do you call  
16 somebody to be the driver who you know doesn't have  
17 a driver's license in the first place? He wasn't  
18 going to be the driver. That's the story he came  
19 up with in the 10 months he was in Mexico and when  
20 he came back.

21 He was a participant. He was going to be  
22 part of it. He can't say that. You know, he can't  
23 say, I was just -- you know, I was just a little  
24 driver. They were going to pay me a little money,  
25 a couple thousand bucks, even though I didn't have

1 a driver's license.

2           Then that morning he wakes up and just out  
3 of the blue decides he's going to go participate in  
4 a drug invasion/ripcoff of drug dealers, which might  
5 be dangerous business, maybe. And he winds up at a  
6 house where he says he sees three black men.

7           And what he says is, you know, but I never  
8 got out of the car. I was only there -- we were  
9 only there for one minute. And it was asked of him  
10 about four different times. He was there one  
11 minute, and what does he say he sees?

12           Well, I saw one of the black guys, and he  
13 says -- this is a neighborhood in Tucson (sic), a  
14 bunch of houses around, cars, people. One of the  
15 guys walks outside and he's smoking a joint,  
16 smoking marijuana, and the other -- a couple of  
17 guys are loading guns into a vehicle, okay, the  
18 three black guys.

19           Then he says he drove to Tucson only with  
20 Yovani and Mayco in the Commander. And I'm going  
21 to get back to the "only" in just a minute, but  
22 what he says is it was only with those guys.

23           And I've prepared sort of a time line of  
24 what happened on the rest of March 2nd so that we  
25 can sort of follow, and I'm going to be going back

1 and forth with this time line.

2 One of the first things that happens is  
3 there's a Murano that's involved in this case, and  
4 the Government knows it, and the Government has  
5 agents surveilling what's going on, and there's a  
6 surveillance log.

7 The Murano is picked up on the freeway, on  
8 I-10. I believe it's being driven by Gollito, and  
9 perhaps Chivo's in the vehicle with him. I forget  
10 for certain, but I'm pretty sure that's what it  
11 was.

12 Surveillance begins with the FBI watching  
13 these guys. Actually, the surveillance began  
14 earlier on the freeway. They arrive at Food City  
15 at 11:45.

16 At about 11:36 until 11:39, close to -- or  
17 11:40, I'm sorry -- the informant Gutierrez gets to  
18 Food City, and he sees Chivo and Gollito there, and  
19 they leave Food City in two cars, I believe, and  
20 they go to the warehouse where the three men go  
21 inside.

22 Okay. This is important. The two guys,  
23 Chivo and Gollito, stay at the warehouse, but  
24 Gollito is asked -- I'm sorry. Gollito is asked to  
25 leave the warehouse and go back to Food City, which

1 he does, and gets there about 2:05. All this time  
2 we're told by Medina that he's coming up in a Jeep  
3 Commander with only two other people in it.

4 So by 2:05 Gollito gets back to Food City,  
5 and there is a bunch of texts going on about all  
6 the people who are there, texts beginning at 2:01.  
7 Well, the first time the FBI actually sees the  
8 black guys, the Escalade and the Expedition, is  
9 2:05. Okay? And there's no evidence that these  
10 other people saw the black guys before then  
11 either.

12 Exhibit 29. This is going to be important  
13 for Medina. At about 2:05, Yovani, Mayco, and  
14 Pineda are picked up standing in front of Food  
15 City. This is after we've seen photographs of  
16 these guys going in and out of the Food City. You  
17 saw a picture of Mayco and Yovani and Jorge Medina  
18 inside the Food City; right? So you know, the FBI  
19 and the Government has gotten those tapes, and  
20 there's surveillance tapes from Food City. We also  
21 know there are agents surrounding, surrounding that  
22 parking lot.

23 The Medina testimony is that he saw four  
24 cars total in the parking lot. And this is  
25 critical. The four cars really the Escalade, the

1 Expedition, the Commander that he says he was in,  
2 and a gray car that wound up parked next to the  
3 Expedition and the Escalade.

4           And why is that important? It's important  
5 because of the time. The surveillance by the FBI  
6 on the Escalade and Expedition, according to the  
7 FBI's own agents, begins at 2:19. And what they  
8 write is, there's a red Ford Expedition and a black  
9 Cadillac Escalade sitting in this parking lot side  
10 by side with a gold Buick LeSabre with two black  
11 men in the gold Buick LeSabre.

12           This is critical that you remember, that  
13 you remember, and I'm going to go over this, that  
14 Medina only sees four vehicles. And what happens  
15 at 2:20? The gold LeSabre with two black men in it  
16 parked side by side to the Escalade and Expedition  
17 leaves the parking lot. That's four minutes before  
18 the arrests at the warehouse.

19           Why do we know that he says there's only  
20 four cars? Because Erica sitting over here, the  
21 court reporter, prepared a transcript of his  
22 testimony, and he said it in about five different  
23 places.

24           "Well, so the FBI is mistaken in what you  
25 told them?"

1           Answer, "Yes, because I was walking by,  
2 and I told them, hey, they got caught. And Miami's  
3 car was right here, and the Escalade was on this  
4 side. They both heard me."

5           Question, "Well the FBI describes you  
6 saying that they heard what you said to Miami. You  
7 were talking to Miami?"

8           Answer, "No, I wasn't just talking to  
9 him. I was talking -- I was just passing by and I  
10 said it."

11          Okay. Then you turn -- question by me,  
12 "Here's what the FBI says you said."

13          Answer, "Uh-huh."

14          "Jorge then walked over to Miami in the  
15 gray vehicle, and he said that Mayco and Yovani  
16 were arrested and he was leaving. Jorge indicated  
17 that this should be that Miami was parked next to  
18 the Escalade and Expedition."

19          "The car parked next to the Escalade and  
20 Expedition," that's the LeSabre.

21          "And the occupants of these vehicles also  
22 heard what he said to Miami. Jorge then departed  
23 Food City and he drove down the street to a gas  
24 station where Mayco's brother-in-law purchased a  
25 Monster drink for Jorge."

1                   Answer, "Right."

2                   Okay. So that's two times already he  
3 said, I warned the people in the car sitting next  
4 to the Escalade and the Expedition that they'd been  
5 stopped.

6                   But it doesn't stop there. You know, he  
7 was asked multiple times, and he says the same  
8 thing for once.

9                   Question, "As you were walking out of the  
10 Food City, you said you walked past those three  
11 vehicles," three vehicles.

12                  Answer, "Yes."

13                  Question, "And if I understand correctly,  
14 you said to the -- to Miami in the white vehicle or  
15 the gray vehicle, or the gray vehicle that's off on  
16 the right, you said to Miami -- you said what?"

17                  Answer, "No, I didn't say nothing to him.  
18 I was walking by, and that's what I said they got  
19 caught, and the driver from the Escalade put down  
20 his window, and the passenger from the little car,  
21 the four-door car, put down his window. That's  
22 when I said, hey, they got caught, and I just  
23 left."

24                  But he doesn't stop there. There's  
25 another time that he's asked the same question by

1 Mr. Lacey.

2 Question, "Go ahead."

3 "That's when I was walking back.

4 There's -- I don't know. It was a gray car. I  
5 don't know what color, but it was a four-door.

6 That was a Mexican dude that I drove over to  
7 Miami's house. So that was Miami, and the Escalade  
8 was parked next to, like, a couple of cars. When I  
9 walked through, that's when I told them they got  
10 stopped. I didn't walk up to them and start  
11 talking to them. That's why both of them, the gray  
12 car, the passenger from the car heard me, and the  
13 driver from the Escalade heard me."

14 Four different times he's given the chance  
15 to say there's another car besides the Escalade,  
16 the Expedition, and the gray car, but it's the same  
17 thing. Why is that important? Well, look at the  
18 time. Because the agents themselves say at 2:20  
19 the gray car parked next to the Escalade and the  
20 Expedition leaves the parking lot with the two  
21 black men.

22 Okay. Well, maybe the FBI really screwed  
23 up and got those times wrong. I don't think so.  
24 The arrest is at 2:24, okay, so he couldn't have  
25 known. He couldn't have known there was an arrest



1 at this point, period, and he couldn't have told  
2 the people in the gray car. And there's no  
3 evidence -- and that's how you decide these cases,  
4 on evidence from the witness stand.

5 There's no evidence of another car based  
6 on what Jorge Medina said. He's got three cars and  
7 his own car and that's it. And he's got to have  
8 these guys hearing, hearing that there was an  
9 arrest.

10 Let's ask this. Let's look at these  
11 exhibits. See that photo, that exhibit? See  
12 that? You know when those are taken? Those are  
13 taken after 2:19, when the FBI agent testified, my  
14 attention was caught by these two cars next to each  
15 other, and I started watching them carefully after  
16 2:19.

17 Did you hear one piece of testimony from  
18 any agent or did you see one photograph from  
19 anybody showing Jorge Medina in that parking lot?  
20 Do you think, do you think that if the agents are  
21 watching nine black guys in a parking lot whose  
22 attention has been caught, and they notice that a  
23 LeSabre is another car with black guys in it and  
24 it's leaving, do you think they would have noticed  
25 a little Mexican talking to them and maybe

1     photographed it?

2             There's another aerial photograph at  
3     2:19. There is not a hint of Jorge Medina, none,  
4     in that parking lot. I don't make these facts up.  
5     This is from the Government itself.

6             So maybe there's another car, but that's  
7     not what their witness said. 2:20 the LeSabre  
8     leaves the parking lot. This is the LeSabre he  
9     says I warned they got caught four minutes before  
10    they got caught. That is called a lie, and it's a  
11    lie because he talked to Yovani who knows what he  
12    was told was taking place by the Government, and in  
13    his own mind, he knew he had to have warned these  
14    people.

15            That's not the only problems with his  
16    testimony at all. If it were, maybe, maybe you  
17    could say, gosh, there has to be -- there has to be  
18    a mixup. You know, gosh, I can accept that maybe  
19    he messed up. Maybe the Government agents messed  
20    up. Maybe these highly trained FBI surveillance  
21    guys didn't get 2:20 right. Maybe, maybe, since  
22    they have 60 people, 40 of them sitting with Agent  
23    Edwards, maybe they made a mistake as to when the  
24    arrest was. Maybe it wasn't exactly at 2:24.

25            All I can go on is by what the Government

1 tells us the times are, and the times are  
2 impossible for Medina to have done what he says he  
3 did. And not only that, the FBI had agents all  
4 over the place, as you see, taking pictures of the  
5 black guys and anybody coming near those cars, and  
6 there's no Medina in the pictures. He's a liar.

7 But let's go on. The black guys,  
8 according to Medina, are warned that there's been  
9 an arrest, and what do they do, since these black  
10 guys are there to participate in a serious crime,  
11 with serious consequences? According to Medina,  
12 what do they do? The answer is nothing. They stay  
13 at Food City. Do you think it's possible because  
14 Medina isn't telling the truth?

15 But put your -- again, just because you're  
16 on a jury doesn't mean you have to become dumb.  
17 Put yourself, if you were about to commit a serious  
18 crime, and you're told your co-conspirators have  
19 just been arrested, in a city where you're not  
20 from, do you think you just sit in that stupid  
21 parking lot and wait for somebody to come and  
22 arrest you? Probably not.

23 What else do they do? Well, they go to a  
24 Circle K, and you saw pictures that the Government  
25 just put up of conversations going on at the Circle

1 K. We have never seen, never, in any of this,  
2 inside that Jeep Commander, have we?

3 You saw pictures of the Commander from the  
4 rear. You see a picture from Exhibit 29 from  
5 above. You don't see the Commander, what's inside  
6 or who's inside. Why is that important?

7 Well, the black guys, when they're at the  
8 Circle K, Medina says, this is when I decided I  
9 would tell them even more, and I told them, our  
10 boys have been arrested.

11 Okay. So what do you do if you're told  
12 your co-conspirators have been arrested and there's  
13 not going to be a home invasion because apparently  
14 there's a huge bust and the cops are all out  
15 looking for people?

16 You go back to the Food City, because  
17 that's what the black guys did. They returned to  
18 the Food City after Medina says I told them there  
19 was an arrest. Does that make any sense? No. No.

20 Okay. So let's look at the rest of what  
21 Medina says happened and see if this makes any  
22 sense. And remember, he had 10 months to come up  
23 with this story. He claims he drove all the way to  
24 Phoenix.

25 You know, we had Agent Edwards up here

1 saying, oh, gosh, sure, he never went to Phoenix.  
2 He just went to Riggs Road 20-30 miles east of  
3 Phoenix, east of Phoenix. Okay. Well, that's not  
4 exactly what the testimony was.

5           What he says, the Expedition returns to  
6 Food City and then leaves and is stopped on I-10.  
7 At 4:34, about 21 minutes after the Escalade and  
8 Expedition are stopped on I-10, Medina is stopped  
9 with his sister and two children in the car, and  
10 the testimony is, the black guys are stopped a  
11 little bit past Casa Grande in that area, and the  
12 Medina vehicle is stopped, according to the  
13 officer, Riggs Road, 20-30 miles east of Phoenix.

14           So let's talk about whether that's  
15 legitimate. I questioned him four different times  
16 about this, and he was real clear, and there's a  
17 reason he was real clear. He has to say he drove  
18 all the way back to Phoenix. He has to say he  
19 drove all the way back to Phoenix and picked up his  
20 sister in Phoenix to avoid having her in Tucson  
21 with a drug ripoff crew, period.

22           Otherwise, his sister has come to Tucson  
23 with a drug ripoff crew with two children. And  
24 frankly, folks, that's the only way, the only way  
25 she could be in the car based on the time that the

1 car was stopped. And let me go over that real  
2 quickly.

3 When I questioned Medina, I asked him:

4 Question, "Let's just say you got there  
5 three minutes after the 4:13 arrest; is that fair?"

6 Answer, "Yes."

7 Question, "Now, I'd like to talk with you  
8 a little bit about Phoenix, because you went all  
9 the way to Phoenix; right?"

10 There's nothing unclear about that  
11 question.

12 And his answer is, "Uh-huh."

13 And the judge says, "You have to answer  
14 yes or no," and he says, "Yes."

15 Okay. But I didn't let that stop me. I  
16 wanted to pin him down.

17 Question, "And your sister, that's Carmen;  
18 right?"

19 Answer, "Yes."

20 Question, "And what did you is, you went  
21 to a place called 51st Avenue in Phoenix; right?"

22 Answer, "Right."

23 "And 51st Avenue basically turns into a  
24 street called Riggs Road; right?"

25 Answer, "Right."

1                "So that's I-10 and Riggs Road; right?"

2                Answer, "Right."

3                "And from the point where you went, where  
4 you saw these black people on the side of the road,  
5 it's about 60 miles to get to 51st Avenue in  
6 Phoenix."

7                Answer, "Right."

8                Question, "That's right, isn't it?"

9                Answer, "Right."

10               So he is precise. He didn't go another 15  
11 or 20 miles up the road and get stopped after he  
12 saw the black people. It was 60, all the way to  
13 the west side of Phoenix.

14               Okay. But I didn't want to stop there,  
15 because I wanted to make sure this guy isn't going  
16 to be messing around with me.

17               "Okay. So 4:34 p.m.," I'm asking him, "is  
18 when the stop was made; right?"

19               Answer, "Right."

20               "And this is an area in Phoenix. You know  
21 this area somewhat; right?"

22               Answer, "Well, I don't know where to get  
23 off."

24               Question, "But it's an area where you went  
25 to meet your sister; right?"

1           Answer, "Right."

2           "And Carmen lives in that area, the west  
3 side of Phoenix; right?"

4           "Yeah, right."

5           "And what we're talking about is, in  
6 Phoenix, the streets are on the east side and the  
7 avenues are on the west side; right?"

8           "Right."

9           Then I continue. "Riggs" -- Question,  
10 "Riggs Road ends and becomes 51st Avenue; right?"

11           "Yeah, west side." That's him  
12 volunteering that.

13           Question, "West side?"

14           Answer, "Yeah."

15           "And that's near where your sister lives;  
16 right?"

17           Answer, "Yes."

18           "And that's where you went to go find her;  
19 right?"

20           "She met me at Riggs Road."

21           "At Riggs Road and 51st Avenue; right?"

22           "Right."

23           "And that's where -- after you drove all  
24 the way from where you saw the black people that  
25 got stopped; right?"



1 "Right."

2 And you know what? He says it yet again,  
3 and this is really important.

4 "That sister is Carmen?"

5 Answer, "Right."

6 "She met you in Phoenix at 51st Avenue?"

7 "Yes."

8 Question, "Okay. That's not halfway;  
9 right?"

10 Answer, "Right."

11 He's lying. There's no way you can drive  
12 -- and it's not a mistake. It's not a mistake.  
13 Anybody that lives in Phoenix knows where 51st  
14 Avenue is on the west side. He's 20 years old.  
15 He's not completely stupid. He's lying. And the  
16 reason he's lying is he doesn't want to put his  
17 sister in that car in Tucson.

18 Maybe he's not smart enough to understand  
19 that some old lawyer's going to actually look at  
20 the times and show that it's not really possible,  
21 but it's not possible, and he's lying, and we've  
22 proved that he's lying.

23 All of this is an exercise primarily in  
24 demonstrating who the person is that the Government  
25 wants you to rely on and what -- what amount of

1     credibility you need to give him, and the answer is  
2     just about zero. He's lied about just about every  
3     major event in this case, including the fact that  
4     he says in about less than an hour he drove all the  
5     way from Tucson to the west side of Phoenix and  
6     back to get stopped at Riggs Road by DPS Officer  
7     Reeves.

8             It's not possible. He was in Tucson with  
9     his sister and two kids in that car and left, saw  
10    the black guys, and gets stopped about 20 minutes  
11    later at 4:34 p.m. That's the only way it could be  
12    possible.

13            You know, I'm almost finished, and let's  
14    just talk a little bit about some of the physical  
15    evidence in the case, because there really isn't,  
16    at least physical evidence that ties Ghermon Tucker  
17    to this case.

18            As you heard, there's no fingerprints of  
19    Ghermon and no DNA on any of the weapons, and you  
20    know, when Ghermon is questioned, he denied  
21    knowledge of the guns in the car, and what you  
22    heard from the Government is that these guns were  
23    pretty well hidden in the car Ghermon was in.

24            One was in the back seat. The evidence is  
25    Ghermon was sitting in the front seat. One was

1 another tucked in the rear seat, and another was in  
2 the console. So his answer of denying knowledge of  
3 guns in his car, you know, the guns weren't visible  
4 in the car.

5           You know they've got a ski mask in this  
6 car. That looks pretty horrible, it really does,  
7 one ski mask for nine home invaders. That really  
8 makes a lot of sense.

9           You know they've got guns scattered all  
10 over the other car, you know, just kind of thrown  
11 in. And with all due respect to our society, it is  
12 a gun-driven society, and people have a lot of  
13 guns, period. Whether that's good, whether that's  
14 bad, that's not for me to decide, but there is a  
15 bunch of guns in this vehicle. Fine. There's a  
16 lot of guns in a lot of vehicles.

17           What I think is more important, however,  
18 and what I'd like you to consider, when these guys  
19 were arrested, nine guys at gunpoint by border  
20 patrol agents, told to get out of the car with your  
21 hands up and don't move, they all get out one by  
22 one, hands up, and not one of them, not one of them  
23 had a gun on his person, not one. The guns were  
24 scattered about, basically willy-nilly throughout  
25 the car, but not one of these guys had a gun on his

1 person.

2           You know, you heard a lot about some of  
3 the other evidence, like sweatshirts. Well, you  
4 know what? There's photographs you've seen at the  
5 Circle K in the morning, when it's 50 degrees in  
6 Phoenix, of guys wearing sweatshirts. Okay.

7           You heard that there's supposed to be  
8 goggles used during this event. There's no  
9 goggles. You heard the black guys are supposed to  
10 be dressed like police. There is no police  
11 uniforms. There's no badges.

12           Ghermon tells the officers when they  
13 question him -- and he agreed to talk to them -- he  
14 doesn't know Mayco, Chivo, or Gollo. You know,  
15 there's no evidence -- if Ghermon is the black guy  
16 in the February 4th meeting, think about that.  
17 Look at the transcript. Is there any evidence he's  
18 introduced to anybody there or whoever the black  
19 guy was? No.

20           Mayco doesn't go by Mayco. He goes by  
21 Seco. So the officers ask, do you know Mayco,  
22 Chivo, and Gollo? He goes no. What else does he  
23 say? They ask him, did you meet these guys in the  
24 park. That's what Agent Frueh said when she got  
25 up. We asked him if he met these guys in the

1 park.

2           There's no evidence Ghermon met anybody in  
3 a park or the black guy who was there, and he says  
4 no. That's not a lie. They never asked him,  
5 apparently, whether you're about to do a home  
6 invasion, a drug invasion, about a warehouse,  
7 anything like that.

8           You know, the gloves in the vehicle, if  
9 you're about to rob drug dealers who have a bunch  
10 of drugs, do you think these people are going to  
11 call the police? Who cares if you have  
12 fingerprints in the place. The police aren't going  
13 to get called, so who cares if you have gloves on  
14 or not?

15           You know, the Government has made a big  
16 deal about the fact that guns are supposed to  
17 arrive. Well, there's at least two cars allegedly  
18 that left where the guns probably were, and that's  
19 in the LeSabre with -- supposedly with Miami and  
20 with Mayco's brother-in-law, who supposedly is  
21 there talking to Jorge at some point, and  
22 apparently the FBI never stopped him that day, in a  
23 blue car. Do you think there could have been guns  
24 in those cars?

25           You know, one of the problems with arguing

1 a case like this is that there's an awful lot of  
2 evidence, and the last thing you want is for me to  
3 go on for another hour talking about it. I could.

4 Just remember this. When Tony Gutierrez  
5 is at the warehouse pretending to be a drug dealer  
6 coordinating this event, he knew that the FBI  
7 wanted the people who were going to be involved,  
8 who were part of the conspiracy, to come to the  
9 warehouse, because that makes it safer for  
10 everybody, for citizens on the street, for the  
11 agents, when the arrest is made.

12 And he sent Gollito back to Food City to  
13 bring back the participants, and the Government can  
14 argue until the cows come home. Gollito got there  
15 and no black guys were asked to come back, none,  
16 because they weren't part of this. And at 11:57 in  
17 the morning on March 2nd, Gollito said, my dad  
18 didn't want any black guys involved.

19 There's -- there's instructions I'm not  
20 going to -- the judge is going to give you that I  
21 was going to go over. I've talked too long. No  
22 jury, no jury can find these men guilty on the  
23 testimony of Jorge Medina and Tony Gutierrez, but  
24 that is exactly what the Government wants you to  
25 do.

1 I'm going to sit down now, and I have two  
2 final things to say. First, you know, I've been  
3 doing this a long time, and there are -- as I am  
4 told by my wife and kids all the time, I am not  
5 perfect, certainly not as a lawyer. If I have done  
6 anything in this trial that you didn't like or that  
7 I shouldn't have done or that you didn't approve  
8 of, I do apologize, but remember, it's my failings  
9 as a lawyer. Don't take it out on Ghermon.

10 Second, I don't have the opportunity to  
11 speak with you again. Okay? That's because of  
12 what the judge just told you about the burden of  
13 proof, which is on the Government. It is not a  
14 small burden. And that's why the prosecutor over  
15 here gets to talk twice.

16 As he speaks to you, as he stands up to  
17 speak to you last, I want you to remember one  
18 thing. I could answer anything he or she says if I  
19 were allowed to, but the system places a heavy  
20 burden on the Government. I don't get to talk to  
21 you again, even though anything they say I could  
22 answer.

23 But in this case -- you decide these cases  
24 on the evidence and on the facts, and the facts  
25 coupled with the instructions in this case allow

1     only one decision on all of these counts, and that  
2     verdict and at that decision is that Ghermon Tucker  
3     and the Ranger brothers are not guilty.

4             Thank you.

5             THE COURT: We're going to break for  
6     lunch. We'll start back at 1:30. Remember the  
7     admonition I've given you before. 1:30.

8             (The jury exits the courtroom.)

9             THE COURT: Mr. Armstrong, you'll be next.

10            MR. ARMSTRONG: Thank you.

11            THE COURT: If you need some exhibits, get  
12     those a few minutes before we start.

13            (Off the record.)

14            (The jury enters the courtroom.)

15            THE COURT: Show the jurors returned back  
16     to the courtroom, the presence of all counsel and  
17     the defendants.

18            At this point in time, Mr. Armstrong, you  
19     may begin with your closing statement.

20            MR. ARMSTRONG: Thank you very much, Your  
21     Honor.

22            Good afternoon. Can you hear me okay?

23            It's hard to follow an act like the  
24     Rolling Stones, but we'll give it a shot.

25            So much of what I wanted to talk to you



1 about has been mentioned by Mr. Cooper. I'm going  
2 to try not to repeat everything, but I'm afraid  
3 some of the things you're going to hear twice, and  
4 you may hear them a third time from Mr. Young.  
5 That's just how this is going to go.

6 I expect -- I'd like to have 30 to maybe  
7 40 minutes of your time right now to just give you  
8 an idea. Again, I don't want to be redundant, but  
9 you may hear it, and I hope you forgive me for  
10 that.

11 And then I'm going to sit down, and then  
12 you're going to see the most patient human beings  
13 in the courtroom, that's Mr. Ranger and myself,  
14 because, as you know, Mr. Lacey gets to talk to you  
15 again. And we are going, all six of us, the three  
16 lawyers and the three men accused of these crimes,  
17 will sit there and be polite, as if we were in  
18 church, and listen, even though, as Mr. Cooper  
19 says, we would love to get up and talk to you  
20 again, but we're not going to get that chance. So  
21 right now, for the next half-hour, I'm all you got.

22 Proof of the conspiracy requires proof of  
23 some agreement to commit a criminal crime, plus a  
24 criminal act, plus an overt act. There has to be  
25 an overt act in addition to the agreement.

1           You've heard the Government talk about why  
2 they think they have convinced you or they have  
3 enough evidence to convince you, and you've heard  
4 from Mr. Cooper why that's just not true.

5           The Government has said that Ja'Cory  
6 Ranger conspired with six Mexicans -- they're  
7 called Mexicans, although some of them I think are  
8 from the United States, but for purposes of this  
9 case, six Mexicans -- and a total of nine black  
10 people to commit the offense of, well, to rip off a  
11 stash house, a fake stash house here in Tucson.  
12 That's -- as you know, that's a crime that the  
13 Government has charged.

14           The only proof that they have of a  
15 criminal agreement, of an agreement, which is one  
16 of the two critical things in order to -- you know,  
17 in order for there to be a conviction, one of the  
18 two critical things here, there has to be an  
19 agreement to commit the crime.

20           The only proof, the only witness who came  
21 forward to testify about the existence of a  
22 criminal agreement was the young man you've heard  
23 all sorts of things about and you heard all sorts  
24 of things from, Cochi, Jorge Medina. That's the  
25 only person who testified about the existence of

1 the agreement, which according to Cochi, he saw  
2 hatched on the morning of March 2nd, 2011.

3 He saw it. He was there when Yovani and  
4 Mayco went to some house in Tucson -- excuse me, --  
5 in Phoenix, went to some house in Phoenix and had  
6 whatever kind of conversation he now claims that  
7 they had.

8 If you'll remember Cochi's testimony when  
9 he was first asked -- and I don't know whether it  
10 was Ms. Hopkins or Mr. Lacey asking him questions  
11 about what he saw that day. If you recall, first  
12 he said he might have gone in the house, and then  
13 he said he wasn't sure, and he might have stayed  
14 outside, stayed out in the street.

15 That seems to be a pretty basic fact that  
16 an honest person would really have no difficulty  
17 recalling and reciting here a few months later. He  
18 couldn't remember that. He had two versions of the  
19 events. It might have been inside; it might have  
20 been outside.

21 Does that strike you as the testimony of  
22 an honest person, somebody with a clear command of  
23 what actually occurred? Eventually he settled in  
24 on, I was outside. I was outside sitting in a  
25 truck.

1           And from that vantage point he saw, within  
2 a short period of time -- whether it was within a  
3 minute or a short period of time, it's hard to  
4 say. What he saw was a black man, a young black  
5 man who he described with a limp roll a joint in  
6 broad daylight in front of somebody's house, maybe  
7 his own, we don't know, but roll a joint and start  
8 smoking it, at around the same time that either he  
9 or a couple of his associates, fellows he knew,  
10 started loading guns into a pickup truck in broad  
11 daylight.

12           All right. So that's Cochi's version of  
13 events. And then he talks about, well, we got into  
14 a car, and I heard from Yovani, and I heard from  
15 Mayco. And you don't hear from -- you the jurors  
16 don't hear from Yovani or Mayco. All you hear from  
17 is what Cochi says Yovani and Mayco said. You  
18 don't hear from the two most important people in  
19 that car, according to Cochi, because he's just a  
20 driver. You don't hear from two of the top six  
21 conspirators in this whole thing. You don't hear  
22 from them. What you get to hear is some chewed on  
23 version of events of what Yovani -- excuse me --  
24 what Cochi is telling you he said.

25           And when Ms. Hopkins stands up here in her

1 opening remarks, she's talking about all the facts  
2 that exist in this case. Oh, my gosh, it's  
3 overwhelming. You start thinking, oh, my God, you  
4 know. Think. Where is this coming from? It's not  
5 Ms. Hopkins. She's a very fine lawyer, but what  
6 she's telling you is stuff that she -- information  
7 that she's getting from Cochi, and that's it.

8           You never hear from Yovani, and you never  
9 hear from Mayco. You don't hear from Gollo  
10 either. And you never hear from Ja'Cory Ranger.  
11 You've got all sorts of phone calls, some lasting a  
12 second or lasting no time at all. The Government's  
13 trying to tell you there's major communication  
14 between conspirators. Zero seconds on a phone  
15 call, and that's a meaningful communication. But  
16 you've got -- you don't hear from Ja'Cory Ranger at  
17 all, period in this case. I'm getting sidetracked.

18           Back to Cochi. He tells you what he did.  
19 After they get back in the car that morning up in  
20 Phoenix, they go -- eventually they go to Miami's  
21 house. They go to Miami's house. And you're going  
22 to hear -- you heard about Miami. I'm going to  
23 talk about Miami. Mr. Young's going to talk about  
24 Miami.

25           But what Cochi, as Mr. Cooper has pointed

1 out and what you got to hear, this is a young man  
2 who was as involved in this crime as anybody else  
3 in that car driving down to Tucson on March 2nd.  
4 He's admitted his involvement to the FBI.

5           What did he do? What did he do that day?  
6 He drove Yovani, who's a guy who was going to bust  
7 down the doors, and Mayco, who was another key  
8 player, who is at the warehouse -- I mean, these  
9 were dudes at the warehouse. He drove those two  
10 guys from Phoenix to Tucson, knowing one of them  
11 had a gun.

12           They went to Mayco's -- excuse me. They  
13 all go to Miami's house and hear a conversation  
14 with Miami, all about what was going on with  
15 Miami. He's there when they're recruiting Miami,  
16 when they're getting Miami involved.

17           And he gives Agent Edwards, more  
18 importantly -- and Agent Edwards believes this.  
19 And that's okay. That's okay. But do you  
20 believe? That's all that matters. It's not what I  
21 believe. It's not what Jon Edwards believes. It's  
22 not what the prosecutors believe. Do you believe  
23 that Cochi's telling you the truth, that he was  
24 just a bit driver, that he was going to be paid a  
25 few thousand dollars to drive down to Tucson to

1 take two major parts of this ripoff crew down to  
2 Tucson? Eh, maybe.

3 Take a look -- if you'll recall the Food  
4 City video, the Food City still photos, he's  
5 dressed in black, just like the other two Mexican  
6 fellows who are apprehended at the warehouse. He  
7 was going into that house. He was as involved as  
8 anybody at that warehouse.

9 You saw from the witness stand, not from  
10 the defense table, you saw the one person in this  
11 courtroom that you can be certain was there to rip  
12 off a house in Tucson on March 2nd. He told you he  
13 drove a couple guys down and that was it. That's  
14 nonsense. There's other words for it. I'm going  
15 to stop at nonsense.

16 If he was so frightened -- excuse me. If  
17 he was so certain that this wasn't such a big deal,  
18 why, as he testified, would he flee? Ja'Cory  
19 Ranger, Ghermon Tucker, and Jerome Ranger didn't  
20 flee. They did not flee. They stayed. They  
21 stayed, and they went back to the Food City.

22 So if Cochi is such, you know, a  
23 tangential part of this whole thing, why did he run  
24 initially? Why did he lie to a DPS officer about  
25 where he was headed, and why did he pack up his

1 family and move to Mexico for six or nine months,  
2 or however long it was? Why was he so afraid to  
3 come back? Why did he have to sneak out of his own  
4 country?

5           You saw a criminal. It was Cochi. And  
6 he's here telling you, here's what other people  
7 were saying about the blacks' involvement in this  
8 case. And here's what I saw. Believe me. Here's  
9 a man with a conviction for lying. He told you he  
10 lied to a DPS officer. He also told you he lies to  
11 members of -- to his wife. When do you think he  
12 stopped lying? At what point in that young man's  
13 life did he stop lying? Has he stopped lying?

14           I don't think -- I don't think it ended  
15 last week or as of last week, I don't know whether  
16 he was here Tuesday or which day it was, but as you  
17 saw, he described a situation running into the DPS  
18 officer outside of Phoenix, that it's impossible  
19 for him to be telling the truth. It's impossible.

20           And it's also impossible for him to be  
21 telling you, for his testimony, about what he saw  
22 in the Food City parking lot to occur. Mr. Cooper  
23 spelled that out for you. So the question is, when  
24 did he stop lying? I don't think he has. It  
25 didn't end last week.



1           We know that Cochi was somehow arrested, I  
2 think, on a minor traffic offense of some sort,  
3 February 8th of '11, the same day Yovani -- Yovani,  
4 again, it would help if you knew who these people  
5 were, if you'd seen them.

6           Yovani. Yovani is a major player in this  
7 whole thing. Yovani is the guy who says he's going  
8 to go bust down doors. He's going to be the first  
9 guy in the door of the stash house. That's  
10 Yovani. He was arrested at the warehouse.

11           Yovani was in Phoenix and had a meeting  
12 with Agent Edwards on the same day, February 8th,  
13 that Cochi had his first meeting with Agent  
14 Edwards.

15           And Yovani -- excuse me. Cochi is telling  
16 you, trying to tell you he really didn't have that  
17 much information about the case. He didn't really  
18 talk to Yovani that much.

19           We talked a little bit, maybe here and  
20 there. We really didn't talk about this case.  
21 Again, do you think he'd stopped lying before he  
22 told you that?

23           I want to talk about Yovani's involvement  
24 in this. I think you heard on the transcript,  
25 maybe that happened in the first week of the case,

1 when Tony, the -- Tony was up here, and he was  
2 going through the transcript for about an hour, and  
3 I think you saw it on your video, and it was  
4 rolling past. You saw it on your screens there,  
5 and it was rolling past you. About two weeks ago,  
6 I think, is when you heard this testimony, or saw  
7 it, because it was in Spanish. But you saw the  
8 translation. And I think I'm going to show you  
9 something about that here in a few minutes too.

10 Yovani is saying, I'm going to be the  
11 first guy through the door. He is a major player  
12 in this whole thing. He knows all sorts of  
13 information about this.

14 And Cochi's, again, telling you that, I'm  
15 married to Yovani's -- Yovani's married to my  
16 sister, I guess it is, and Yovani feels comfortable  
17 enough to call me on the phone and ask me if I want  
18 to go commit a major felony or be a driver while I  
19 go commit a major felony, and you're going to --  
20 and Cochi's going to be present when Yovani and  
21 Mayco have all sorts of discussions between the two  
22 of them and over the telephone and with a bad dude  
23 named Miami.

24 He trusts them that much to talk about the  
25 case, but he also is not going to tell him -- he's

1 not going to discuss the facts after the case,  
2 after Yovani has been arrested and is facing  
3 serious prosecution, and more importantly, at a  
4 time when Cochi is trying to figure what his next  
5 step is. Does he live the rest of his life in  
6 Mexico, or does he return to his own country and  
7 face criminal prosecution?

8 He kind of got off easy. He returned to  
9 his own country, but he's not facing criminal  
10 prosecution. He is walking this earth completely  
11 scot-free. No consequences. None. And there  
12 aren't going to be any. There are not going to be  
13 any.

14 Excuse me just one moment here. I want to  
15 talk about from the initial meeting, February 4th  
16 of 2011, the initial meeting with all the  
17 Mexicans. And Cooper has covered this, and I'm not  
18 going to spend a lot of time on this.

19 At that meeting, the purpose of that  
20 meeting wasn't to discuss planning a home  
21 invasion. I mean, it really wasn't. The purpose  
22 of that meeting was for Tony to gather information  
23 about people that he was BS-ing about the home  
24 invasion. That was the purpose of the meeting. It  
25 wasn't to plan a home invasion because there wasn't

1 going to be a home invasion.

2           The purpose of that meeting was Tony  
3 wearing a wire someplace on his body, there to  
4 dirty up everybody who appeared in that meeting  
5 room, get information on them, turn it over to  
6 Rubicalva or Edwards for later use.

7           You've heard for two weeks how it's not  
8 logical to believe that the Mexican -- the Spanish-  
9 language speakers in that room were using English  
10 at really any significant point of the  
11 conversation, because if they were, there would  
12 have been a different outcome. I mean, you know,  
13 whatever black person is in that room is not going  
14 to tolerate that kind of talk. There is no  
15 evidence that there was any sort of difficulties at  
16 all.

17           And you know, probably the Mexican people  
18 aren't going to speak the way they were speaking,  
19 you know, being polite. Although they're using the  
20 N word, they're going to be polite and not talk  
21 about that to his face.

22           So you know, they weren't -- and you know,  
23 Mr. Lacey's going to get back up here again, and  
24 I'm just going to have to sit here again and maybe  
25 just chain myself to my desk and not stand up,

1     because I can't. I'll be in a lot of trouble.

2             He's going to try to tell you about 65  
3     birds and renting a house. 65 birds and renting a  
4     house does not provide you with enough information  
5     to make yourself a conspirator. You can't jump  
6     into a conspiracy by talking about 65 birds and I  
7     rent houses.

8             But what Tony could have done -- because  
9     the purpose of his meeting, again, is not to plan  
10    the thing, but to get people committed with his  
11    wire, wherever he was wearing it, is to get people  
12    committed to the crime so he can turn the evidence  
13    over to Edwards.

14            He never turned to Tony -- following up on  
15    what Cooper said again, he never turned to -- Tony  
16    never turned to the black man in the room and said,  
17    well, what do you think? Doesn't this sound  
18    great? Let's go make a million bucks. Let's make  
19    half a million bucks. I'm going to cut your crew  
20    in on this. You're going to provide this and this  
21    and this. We're going to go on a certain day. I'm  
22    going to -- you know, give me your phone number.  
23    Nothing like that. Absolutely nothing like that.

24            If Tony is -- if that is his purpose, he  
25    did a pretty miserable job at it. There was no

1 conversation that the black person in that room  
2 comprehended, period.

3           Jumping ahead a month. Now, in that month  
4 -- can I hit you up for some water? Thank you.

5           During that month, you heard any number of  
6 times Gollo, who again we don't know or we don't  
7 see, and who never traveled -- although this was  
8 his operation, Gollo stayed in Phoenix. Gollo sent  
9 Gollito, sent his son.

10           But Gollo says, we're not using the  
11 blacks. And you've heard the derogatory things  
12 said about the blacks. They were not part of the  
13 deal. All throughout the month of February, they  
14 were not part of the deal. I don't think they were  
15 part of the deal February 4th, and they were not a  
16 part of the deal anywhere in the rest of that  
17 month, or even March 1st or on March 2nd.

18           I've got Bates 8240 up before the jury.  
19 The circle is mine, and the check is probably mine  
20 too. That's from a conversation at 8:40 in the  
21 morning, the morning of the deed, 8:40 in the  
22 morning. That's a conversation between Gollo and  
23 Tony, and he says two blacks are going. Two blacks  
24 are going. 8:40 in the morning.

25           I suppose I could just read this to you.

1 Bates 8185, conversation three hours later, between  
2 Gollito and Tony.

3 "Hey, did your dad send the black guys or  
4 not?"

5 "No, no, no," Gollito says. "It is  
6 nothing but Chicanos."

7 The black guys were never part of this.  
8 Ja'Cory Ranger was never part of this. The two  
9 blacks, I don't know. Cochi might know. Cochi  
10 went to a black man's house named Miami to pick him  
11 up -- or excuse me. I didn't mean to say that. He  
12 didn't pick him up but went with Mayco and -- my  
13 brain is fried. I need a nap.

14 He goes with Mayco and the other fellow to  
15 Miami's house the morning of March 2nd. He's up  
16 there with Mayco. He goes to Miami's house.  
17 That's one of the black people. And there are two  
18 black people, as you'll later see, and I think  
19 Mr. Cooper covered this, in a car in the parking  
20 lot of the Food City. Two. The FBI even spotted  
21 them. They left at 2:20.

22 So at 8:40 in the morning, the big cheese,  
23 the big man Gollo is telling the snitch, excuse me,  
24 Tony, the confidential human source, that there's  
25 going to be two blacks. Three hours later, in a

1 whole ball of confusion, I don't know what -- where  
2 to come down on this, but three hours later the son  
3 is saying, no, no, no, we're not using any blacks.

4           Jumping head again to the Food City. Why  
5 is the Food City so important? Agent Edwards  
6 testified about why it's so important. The Food  
7 City versus the warehouse. The warehouse is key  
8 because, if you go to the warehouse, you're going  
9 to be arrested, because it's now clear what your  
10 intentions are. If you get to the warehouse,  
11 you're part of the plan. You're part of this  
12 conspiracy. Food City wasn't.

13           They were not making arrests at the Food  
14 City. They were monitoring the Food City. And  
15 they were not looking for the Rangers at the Food  
16 City. They didn't see them until much later, until  
17 hours, hours later, after other people started to  
18 arrive. And they really didn't even see them until  
19 the whole thing was almost over.

20           So the Food City -- going to the Food City  
21 is not the criminal act. It's the FBI wanted to  
22 get you or get the person to the warehouse. And I  
23 know that they say, well, that was for safety  
24 reasons. Well, they could have made the Food City  
25 a safe location or used another location that they



1 could have made safe, another abandoned property of  
2 some sort.

3           You know, if they wanted to have this  
4 two-step process, go to the Food City for whatever  
5 purpose, but it's not a crime until you get to the  
6 warehouse. You know, if they wanted to arrest the  
7 people at the Food City, they could have done  
8 that. Again, I understand the whole public safety  
9 concept, but they could have moved the whole -- you  
10 know, why did they want people at the Food City?  
11 They could have taken that to another location.

12           They could have said, well, meet in an  
13 abandoned property down on South Sixth, someplace  
14 east of town. You meet there. Okay. You meet  
15 there. You had FBI all around there to make the  
16 arrests.

17           Now, Tony needed to get people, and Agent  
18 Edwards told him, you need to get people -- the  
19 people involved in this gotta get to the  
20 warehouse. And to state the obvious, Ja'Cory  
21 Ranger was never at the warehouse, never got close.

22           So much of what I wanted to talk about,  
23 I'll be darned, it's a half hour already,  
24 Mr. Cooper has already gone over, but I have a few  
25 points that I want to run over here first.

1           Throughout this whole process, throughout  
2 all the conversations, African-Americans are  
3 referred to as either blacks by the Mexican  
4 conspirators or another awful word, niggers or  
5 monkeys.

6           Towards the end of this, the warehouse  
7 meeting, maybe about halfway through, there is  
8 conversation. The language changes. They're no  
9 longer calling them -- no longer calling African  
10 -Americans black or the other word. The people  
11 that are going to be used in the -- to go in to the  
12 residence, they're referred to as "the people." And  
13 I'm referring to Bates 7935.

14           You also see here, "The people," "I'm  
15 going to be in charge of the people." That looks  
16 like something Mayco said. And Chivo, who again we  
17 don't know, we don't see, says, "I'll just have to  
18 tell the kids" -- "We just have to tell the kids,  
19 man, don't do anything to anybody." They're not  
20 calling them blacks.

21           If they're going to use -- if the blacks  
22 are really the people they're going to use, why  
23 aren't they referring to them in the same way as  
24 they were referring to them from February 4th, all  
25 throughout the month of February and all throughout

1     that day?

2             Suddenly they're using "kids" and they're  
3     using "people." It's not -- they're not using --  
4     they're not using the "niggers." They're not using  
5     "the blacks."

6             And Yovani, I might never speak about  
7     Yovani again. Yovani has said, and you heard on at  
8     least two occasions, right toward, you know, sort  
9     of at the warehouse, as things are winding down  
10    over there, Bates 7938, Yovani is talking about  
11    what he's going to do.

12            And remember, the whole fiction about the  
13    warehouse is there's two guns. Tony has told  
14    people there are just two guns. I forget the  
15    caliber. A .45 and I think they called it a .33,  
16    which I don't know that you have those, but he says  
17    there's two basically handguns.

18            Tony has got this whole thing, got  
19    everybody thinking there's two handguns and five or  
20    six people, including his cousin, who's probably,  
21    you know, who you wouldn't -- everyone wouldn't  
22    expect to put up any sort of a fuss. And Tony  
23    himself will be there. He's not going to put up  
24    much of a fuss.

25            You understand, he was going back to the

1 warehouse. The whole fiction was he was going to  
2 go back to the warehouse. Excuse me. He was going  
3 to go to the stash house -- I'm not explaining this  
4 well. He was going to go to the stash house --  
5 that's what he was telling folks -- and when he  
6 came into the stash house, he was, you know, going  
7 to act like, oh, I'm all surprised and that sort of  
8 thing. He needed to be there, and those people  
9 needed to believe that he was going to be there, he  
10 and his cousin.

11           So there's two handguns and a couple other  
12 people, and that's what all of these folks believe,  
13 until the very last, until Tony comes up with this  
14 last-minute story about there's six other people  
15 there with guns.

16           So I'm trying to imagine myself in the  
17 mind of a person who's going to go commit a home  
18 invasion. I've got my own crew, four, five, six  
19 guys. Maybe I've got two blacks back in the  
20 parking lot, Miami and the other guy. And, like,  
21 if I'm Yovani, I'm ready to bust in myself.

22           This is Yovani. "YV" is Yovani. They're  
23 talking about the door. It says, "I'll fucking  
24 knock it down." A little while later there he's  
25 speaking with -- I think it's Chivo and Mayco.

1 Well, the whole gang is there. He said, "As soon  
2 as I take down the door, I'm going to be the first  
3 one in the living room."

4 So Yovani is going to be the guy  
5 accomplishing the entry of the house, a house  
6 that's fairly lightly guarded. You've got two  
7 guys. You don't have anybody, but the conspirators  
8 think there is just two guys there with two guns.

9 So remember back what Cochi had said.  
10 Cochi said, I heard the plan, and it was to give  
11 the black guys half of the cocaine and whatever  
12 else was found at the house. So why would you give  
13 half a million dollars of cocaine for a job that  
14 you can do yourself? Why involve anybody else in  
15 an operation that you're completely equipped to do,  
16 a lightly guarded -- and again, there is no stash  
17 house, but what these guys were believing until the  
18 very last is this was a very lightly guarded stash  
19 house with 50, maybe 65 kilograms of cocaine, and a  
20 whole bunch of cash in the house.

21 Why cut anybody else in on it? You don't  
22 need anybody else, because if you use them, you're  
23 going to have to give them half.

24 A few more points here. Bates 7939 and  
25 7940. Mayco throws out what looks like a phone

1 call at the very last minute. And again, I don't  
2 -- the information I'm showing you here, it's not  
3 correlated or it's not synchronized as to time, but  
4 it does occur towards the very end of that maybe  
5 50-minute transcript that you saw.

6 And if you recall the testimony from the  
7 FBI translator, the italic words are English words,  
8 and "ML" is Mayco. And there's an aside, and in  
9 English, it says, "The dude called. Five more  
10 fools are there, so scram, huh?"

11 I think that's Mayco talking to somebody  
12 else, and it's not the phone call that the  
13 Government says that they saw Mayco make at the  
14 time of the arrest. It's, I don't know, a minute  
15 or two before the arrest. "The dude called. Five  
16 more fools are there, so scram, huh?"

17 The next page, continuing on with the  
18 transcript, it says, "Well, I'll call you. I'll  
19 call you in a half-hour." And then he turns back  
20 to the CHS -- I think it's what he did. He says to  
21 CHS, "So they called you," and then he's back  
22 talking in Spanish.

23 I looked over all those phone calls, and I  
24 think it's Exhibit 114, the chart you've seen.  
25 There is no phone call from Mayco to Ja'Cory

1 Ranger, Ghermon Tucker, or Jerome Ranger, that  
2 coincides with that conversation. There is a man  
3 saying, you know, there's five more -- Mayco, who's  
4 there, one of the main guys trying to do this, just  
5 before the arrest, he's having a conversation in  
6 English, not Spanish, in English to somebody else,  
7 minutes before the arrest.

8           And the conversation is, "There are five  
9 more people here," so he's buying into this whole  
10 thing Tony is saying. And I think Tony, if you  
11 recall, he said he told them that to keep them from  
12 leaving, because Mayco was ready to do this by  
13 himself, and he said, no, I've got to keep Mayco  
14 here.

15           I've got to give that Tony credit. That  
16 man can lie. By God he can lie. He's around a  
17 bunch guys of with guns who, if anyone found out  
18 what he was up to, you can imagine what would  
19 happen.

20           And just like that, there's Mayco ready to  
21 go. He figures out how to keep Mayco in the room.  
22 Of course the door was locked and Mayco wasn't  
23 going anywhere, but I think, if Mayco would have  
24 found that out, there would have been more  
25 trouble.

1           So Tony tells and comes up with this last  
2 minute nonsense about five more guys with guns.  
3 Mayco hears this and places a call in English to  
4 somebody. Again, I don't have access to when this  
5 call occurred, but it's, I think, three pages  
6 before the end of the transcript, and there's,  
7 like, 41 pages in the whole transcript.

8           So minutes before the whole deal goes  
9 down, Mayco's saying, I'll call you in a half  
10 hour. There's five more guys here. Let's scram.  
11 Kind of like he's calling this off.

12           Meanwhile, back in the parking lot, at  
13 2:20 the gold Buick takes off. Again, I don't know  
14 the time of these phone calls, but I do know that  
15 the Government's chart here, Exhibits 114 and 113.  
16 113 doesn't matter, but 114 doesn't have that phone  
17 call on there. It was not a call to anybody in  
18 this room. It's not here. It can't be.

19           So who was he calling? I think he was  
20 calling one of the two blacks that Gollo, Gollo,  
21 not Gollito, Gollo had said we were going to send  
22 two blacks, the two blacks that were observed in  
23 the parking lot, neither Rangers, that left at 2:20  
24 and have never been seen or heard from again.

25           I know Mr. Young is going to talk to you



1 about the jury instructions, and so I'm going to  
2 let him finish with that, but I know one of the  
3 jury instructions you're not going to see is the  
4 old adage that the villain always returns to the  
5 scene of the crime. Sherlock Holmes or something  
6 like that.

7           The Rangers returning and Mr. Tucker  
8 returning to the Food City is not any indication of  
9 guilt. It's an acknowledgment on their part that  
10 they're not worried about anything. They go back  
11 to the place that the black guy in the gold -- in  
12 the Buick scrambled out of. And if Cochi's to  
13 believe -- to be believed, Cochi told everybody to  
14 leave. I don't think he did.

15           But everybody's gone from that location,  
16 and the Rangers just sit there. After there's been  
17 an arrest, after people have left the Food City,  
18 the Rangers sat there for a good -- and  
19 Mr. Tucker -- sat there for a good 10 minutes. And  
20 then they come back 45 minutes later, roughly, give  
21 or take, unlike everybody else in the case.

22           The guys -- the guys in the Buick took  
23 off. Cochi took off, took off all the way to  
24 Mexico. The Rangers don't leave quickly. They  
25 don't throw away their cell phones. They don't

1 throw away any evidence. They don't discard their  
2 jackets. They don't try to dump the guns. They  
3 drive back, probably, on the same route that they  
4 came down on.

5 They didn't -- they didn't go to Mexico.  
6 They didn't head up to Globe, go out to Benson.  
7 They can't cut off on Interstate 8 at the last  
8 minute and try to get in through Benson or try to  
9 get in town through Maricopa or Gila Bend.

10 I kept asking witness after witness -- and  
11 maybe you were thinking, what's that knucklehead  
12 doing? They were arrested after the point you turn  
13 off to San Diego. They went home the normal  
14 route. When they were arrested, they all had their  
15 telephones on them.

16 The fact that they didn't destroy any  
17 evidence, make any effort, no effort at all to  
18 destroy any evidence in this case, and the fact  
19 that they didn't leave quickly the Food City, the  
20 scene that, you know, had something gone amiss,  
21 terribly wrong at that Food City, they didn't leave  
22 quickly -- and they went back. They went back, and  
23 I don't know why, but they weren't afraid. They  
24 weren't afraid of anything. They weren't afraid of  
25 the FBI, and they weren't afraid of the police.

1 Other people had fled. They go back to the place  
2 that was a very dangerous place for all the  
3 conspirators in this case.

4 I think it was two weeks ago I stood here,  
5 and I told you Ja'Cory -- you're what Ja'Cory had  
6 in this case. The Government has made their  
7 decision. They've made their choices. They're in  
8 bed with Tony, \$75,000 for two months worth of  
9 work, plus a whole lot of moving expenses.  
10 \$108,000 for his testimony. \$108,000 for his  
11 testimony. And freedom, complete freedom for  
12 Cochi, who is as guilty as any of the people at the  
13 warehouse that day. That's who they're in bed  
14 with, and that's who they called. That's who they  
15 choose to believe, and that's their case.

16 You're all this young man has. I know  
17 jury service has been an imposition, and I know  
18 when you go back to deliberate, you may be  
19 thinking, I've got to -- you know, I've got my idea  
20 here, but somebody else has got another idea. You  
21 know, I -- stand your ground. Stand your ground.  
22 If you're not buying this, don't be persuaded by --  
23 or don't give into temptation just to resolve this  
24 case. Stand your ground. Stand your ground for  
25 Ja'Cory.

1           This has been a long two weeks, but I  
2   guarantee you, this has been the most important two  
3   weeks of this man's life, this young man's life.  
4   We thank you for your time.

5           THE COURT: Mr. Young, whenever you're  
6   ready. You can have your own cup of water too.

7           MR. YOUNG: Thank you, Your Honor.

8           I harp at my children, ladies and  
9   gentlemen. I absolutely harp at them. They're in  
10  high school now, so they're pretty tired of hearing  
11  it, but we still talk about it. And Jerome, it  
12  wouldn't hurt you to listen to this too.

13          If you're hanging out with hoodlums, if  
14  your friends are troublemakers, it's not that  
15  you're going to do something that you shouldn't.  
16  That's not my worry. But they are going to leave  
17  you holding the bag for something. I don't know  
18  what and I don't know when, but I know they're  
19  going to leave you holding the bag, and I know  
20  what's going to happen.

21          They're going to want to leave their lunch  
22  box in your locker. They're going to want to leave  
23  their backpack in your car. They're going to want  
24  a ride across town. And they're going to know when  
25  to turn off their phone and throw it away.

1           They will know to disappear when the guys  
2 at the warehouse get stopped because "got stopped"  
3 will have meaning to them. And when that happens,  
4 all of the different colored cars and all of the  
5 brother-in-laws and everything else is all going to  
6 melt away.

7           Mayco and Chivo are going to go through  
8 the front door like Wile E. Coyote and Roadrunner  
9 when SWAT comes through the wall, and the white car  
10 and the gray car and the gold car and the Jeep  
11 Commander will all be gone before surveillance even  
12 sees them.

13           Miami's only going to hang around long  
14 enough to ditch his and Mayco's vests, and he'll be  
15 gone a minute later, before surveillance even gets  
16 his full license plate.

17           And you will be left hanging around in an  
18 empty parking lot and driving around in aimless  
19 circles and eating lunch out in front of a Circle K  
20 while you wonder where everybody went.

21           Your friend Mayco, he's not just screening  
22 his calls, and he's not going to pick up his phone  
23 just because you call from a number he doesn't  
24 recognize. I actually do that a lot, not screen my  
25 calls, but -- my wife's my office manager. She

1 does that for me.

2 But believe it or not, not everybody wants  
3 to talk to their attorney, and so my office has a  
4 blocked line, and I have an unblocked line. And  
5 normally I call on an unblocked line. If I think  
6 someone is screening my calls, I call from the  
7 blocked line.

8 My mother does the same thing if she  
9 thinks I'm screening her calls. She calls from my  
10 brother's phone, and she gets me every time, and  
11 then we're going to talk about whatever she saw on  
12 the Internet. That's how caller ID works.

13 Now, I dislike Jorge. I dislike him for  
14 purely personal reasons. The guy is a worm. On  
15 the other hand, Jorge does help me out by saying  
16 that my client is not hanging around getting high  
17 with his friends on a Wednesday morning.

18 I also noticed that Jerome Ranger was not  
19 at the December 29, 2010 meeting in Phoenix. I  
20 notice that Jerome Ranger was not at the February  
21 4, 2011 meeting in Phoenix. Jerome Ranger was not  
22 at the February 22nd, 2011 meeting, also in  
23 Phoenix, in addition to not being there the morning  
24 of March 2nd, 2011.

25 His phone never contacted Gollo's phone

1 ever. Dan Douglass, who is the toll record guy, he  
2 clarifies that, by "ever," he means the dates from  
3 January 1, 2011, to March 2nd, 2011. Those are the  
4 dates that he has records for.

5 Jerome Ranger's phone has never contacted  
6 Gollito's phone, again, ever. Jerome Ranger's  
7 phone has never contacted Chivo's phone ever.  
8 Jerome Ranger's phone was used to contact Mayco's  
9 phone once, again, ever. That was on February 4 at  
10 1:01 a.m. for two seconds, after which I couldn't  
11 tell which, either Mayco's phone called Ghermon  
12 Tucker's phone or the other way around. I can't  
13 tell which way those phones were calling each  
14 other. It's on Exhibit 113, whatever it is.

15 Point being, these are not Jerome Ranger's  
16 friends. Jorge also helps me out by saying that he  
17 warned Miami that the guys at the warehouse were  
18 stopped, which is why Miami ditched his vests and  
19 broke contact the way that he did.

20 But Jorge is still a worm. Just ask his  
21 wife. I don't need to go all the way to 51st  
22 Avenue to prove that he is a lying liar. I know  
23 everything I need to know about Jorge just from  
24 having met him.

25 And Judge Collins will instruct you in a

1 little bit to examine Jorge's testimony with  
2 greater caution than that of an ordinary witness.  
3 That applies to Tony's testimony too. Jorge needs  
4 to say that he got at least one of the blacks, that  
5 at least one of the blacks was told about a drug  
6 rip. The black with the bad leg, for instance.

7 And from that, I guess you can just  
8 speculate, because that's what they're asking you  
9 to do, you could just speculate that all the blacks  
10 must know because one of the blacks knew, according  
11 to Jorge, and it just makes sense that, if one of  
12 the blacks knew, then all of the blacks must know,  
13 because, you know, I don't know, just speculating.

14 It's bad enough that the case against the  
15 guy with the bad leg depends on Jorge's testimony,  
16 and the case against everybody else, that case  
17 depends on speculation that the black with the bad  
18 leg must have told them. Did it happen? Well, it  
19 doesn't fit any of the facts.

20 As my colleagues have pointed out to you,  
21 who is standing around at the Food City 15 minutes  
22 after everybody else has cleared out? Who is still  
23 there after Jorge has warned Miami about Mayco  
24 getting stopped? Who's eating lunch at the Circle  
25 K?



1           Now, Jorge, he left the Circle K the same  
2 minute that he got stopped, and he was sneaking on  
3 and sneaking off the freeway, trying not to get  
4 stopped because he was scared, and he was having  
5 his sister come and pick him up and drive him  
6 because he was scared.

7           And he moved to Mexico, not the next day.  
8 He moved to Mexico the same day, because he was  
9 scared, because Mayco getting stopped, that meant  
10 something to him. That was important. He moved to  
11 Mexico that very day and stayed a year.

12           Miami, he left a minute after he was  
13 spotted at Food City. Everybody else left Food  
14 City before they were even spotted. And who is  
15 still driving around in circles looking for their  
16 friends? Who's still calling Mayco, trying to get  
17 him to answer?

18           If Ghermon Tucker knew that Mayco was  
19 doing a home invasion, and if Ghermon Tucker knew  
20 that Mayco had been arrested, then Ghermon Tucker  
21 would know that no kind of phone is ever going to  
22 reach Mayco. It's not a bad connection. A land  
23 line is not going to get through. Mayco is never  
24 going to answer that phone.

25           But Ghermon Tucker is still trying to

1 place that call, and the Government wants to tell  
2 you that Ghermon Tucker knew that the person he was  
3 calling was just arrested for a home invasion. No,  
4 Ghermon Tucker did not know that. If he knew that,  
5 there would be no point in calling.

6 Jerome Ranger, he's got a receipt for his  
7 AK-47. There is no real point in that either.  
8 That is somebody who is missing an important part  
9 of the big picture, like the home invasion part.  
10 If you're robbing a load of drugs from a home, a  
11 receipt is not going to do you any good.

12 And Jerome claims two vests. Really?  
13 Tell me about that. How many vests can you wear at  
14 once? I would say for most people, probably just  
15 one. I might be able to figure out a way to get  
16 into two of them. But there's no reason for Jerome  
17 to have two vests. You can only wear one vest.

18 These are Mayco and Miami's vests. Jerome  
19 Ranger won't say so, but I will, because it makes  
20 as least as much sense as Jerome Ranger wearing two  
21 vests.

22 And let me add, if you're going to reach  
23 into those bags and pull out those vests with a  
24 fresh pair of latex gloves on, like you still might  
25 get curious some day about whose vests they are and

1 go have them DNA tested, well, now is the time,  
2 because we're talking about whose vests they are  
3 today.

4           The red skull ski mask, I have to admit,  
5 as soon as I saw that, I was thinking, that is  
6 about the coolest hat I've ever seen. These guys  
7 bought that somewhere, and I'm going to figure out  
8 where. And after this trial is over, I'm going on  
9 eBay. I'm going to go to Spencer's at the mall.  
10 I'm going to put it on my Amazon wish list. I'm  
11 going to find that hat someplace, and I'm going to  
12 get me one too. I probably could have ordered it  
13 from my smart phone while Mr. Cooper was still  
14 nailing down the mileage from 51st avenue.

15           I embarrass my kids enough already, and  
16 I've reconsidered the red skull ski mask. I should  
17 probably mostly stay away from urban hip-hop  
18 style. But still, the hat, if you push it up onto  
19 your head, which, if you've ever lived somewhere  
20 cold, and I have lived someplace cold, you know  
21 that you wear your ski mask most of the time up on  
22 your head, or your balaclava, or if you're in  
23 Canada, they would call it a toque. You push it up  
24 on your head. And the ski mask I was looking at  
25 was one of the coolest hats I've ever seen. It's

1 style.

2 Zip-ties. There were a lot of guys in a  
3 lot of cars. There were a lot of guys in the red  
4 Expedition. Again, the Government has had those  
5 zip-ties for a year and a half. And again, they're  
6 still putting on fresh gloves before they handle  
7 them, just in case they ever get curious about  
8 who's been touching them and in case they're  
9 curious about who laced them together.

10 The question, why do we carry guns? I  
11 could probably ask you all that question. I  
12 noticed that every hand, almost every hand, almost  
13 every hand went up when Judge Collins asked you all  
14 about gun ownership. It was almost every hand  
15 except for that one defense attorney with the John  
16 Lennon glasses who was sitting down here.

17 The answer, I suppose, to why do we carry  
18 guns is mostly because we can. My daughter talked  
19 me into taking her shooting this weekend. Twisted  
20 my arm, you can imagine. We shot until we had  
21 blisters. Was there a point to it? It's loud.  
22 It's dirty. It's dangerous. It smells bad. Those  
23 are all terrific reasons in my book, but they're  
24 probably not her reasons because she's 14, and her  
25 favorite color is pink.

1           Me personally, about guns, I really like  
2 the way the perfectly machined parts fit together.  
3 And so for that reason, I really like the AR-15.  
4 Some of you will know what I'm talking about here,  
5 some of you won't, but I'm going to do it anyway.

6           The upper and the lower receiver are  
7 machined instead of stamped. The gas-operated  
8 rotating bolt I think is genius, the way that the  
9 bolt face rotates and the locking lugs connect up  
10 with the chamber, I just think that's genius.

11           Again, some of you know what I'm talking  
12 about. Some of you might not. The tolerances on  
13 that weapon are very close, so it really likes to  
14 be cleaned, which works for me because I'm one of  
15 those people who really likes to clean. That's how  
16 I relax.

17           None of this is really a really compelling  
18 argument for gun ownership. We just like them, and  
19 men have always liked projectiles for all of human  
20 history. It's just part of our DNA. Try not to  
21 mess it up with logic.

22           Mayco, a few words about Mayco. Mayco is  
23 barely invited on this misadventure. He was in for  
24 a while. He was out for a while. Maybe he can  
25 bring his roommate Miami, but that's going to be

1 about it. Mayco could not have promised half of  
2 the cocaine to the black guys. For one thing,  
3 Gollo did not invite Mayco. Let me back up. Gollo  
4 may have invited Mayco. Gollo did not invite the  
5 black guys, and Gollo was very clear about that.

6 But what happened was that Jorge was not  
7 there when Gollito, who's in charge, and Chivo told  
8 Tony at 11:57 that morning that the blacks were not  
9 coming. He could not have known that the blacks  
10 were not in on the deal. I think the words were  
11 that Gollito said his father did not send the  
12 blacks.

13 Jorge did not know that, so he made some  
14 assumptions, and he did what he could to shorten  
15 his sentence or to get out of this completely. It  
16 looks like get out of this completely. Tony did  
17 say that you can't trust any of these guys, that  
18 they're liars and they're thieves.

19 Another thing is that, if you do just a  
20 little bit of math, half of the 65 kilograms of  
21 cocaine is going to leave 32.5 kilograms for  
22 everybody else, and Tony already says that he's  
23 been promised 20 kilograms for setting the deal  
24 up. Now that leaves 12 and a half kilograms of  
25 cocaine for everybody else. Mayco cannot make that

1 kind of a deal with someone who's not even supposed  
2 to be there. He was in no position to give away  
3 half of 65 kilograms of cocaine.

4 Everybody likes to party, especially with  
5 these guys. Gollo's parties, you heard, are  
6 legendary. He has to move after each one.

7 Chivo says he's going to save a kilogram  
8 of cocaine for his own personal use, and they call  
9 Jorge Cochi.

10 Mayco and Miami, I submit to you, are  
11 going to rent a VIP room at one of our show club  
12 establishments, and they are going to show the boys  
13 an epic good time because parties are no fun alone.

14 That makes at least as much sense as what  
15 the Government would have you speculate, which is  
16 that Mayco promised half the cocaine to people who  
17 were not supposed to be there, and that the guys in  
18 the Expedition and the Escalade heard that Mayco  
19 got arrested and that they knew it was a home  
20 invasion and they could not figure out why Mayco  
21 was not answering his phone and they kept on  
22 looking for him. And that makes as much sense as  
23 Jerome Ranger trying to give the FBI a receipt for  
24 his AK-47.

25 "Did your dad send the black guys or

1 not?"

2 "No, no, no. It is nothing but  
3 Chicanos."

4 You have to know that that's going to be  
5 one of the bookends for my argument, that and maybe  
6 the fact that, on March 15, Chelo said that some of  
7 the guys that were arrested were not part of it. I  
8 think it's important too. And Gollito said his dad  
9 Gollo would not send them. Gollito would know  
10 because Gollito is the one who was in charge in  
11 Tucson.

12 There are a couple of instructions that I  
13 want to mention before I let you go. One of the  
14 instructions is the mere presence instruction.  
15 Judge Collins will tell you that mere presence at  
16 the scene of a crime or mere knowledge that a crime  
17 is being committed is not sufficient to establish  
18 that the defendant committed the crime charged.  
19 The defendant must be a participant and not merely  
20 a knowing spectator.

21 I would add as an attorney that being  
22 merely present is also remarkably a bad idea, but  
23 that's not part of the instruction. That's my own  
24 advice.

25 There is another instruction with respect



1 to conspiracy along the same lines. A person does  
2 not become a conspirator merely by associating with  
3 one or more persons who are conspirators, nor  
4 merely by knowing that a conspiracy exists.

5 My advice to my kids and my advice to  
6 anyone who asks me is not to be present at all and  
7 not to associate at all. Technically it's not a  
8 crime to be present, and technically it's not a  
9 crime to associate, but you will get left holding  
10 the bag.

11 Thank you.

12 MR. LACEY: I need to set a few things up,  
13 Your Honor. It will take a couple, three minutes.

14 THE COURT: Three minutes? Do you want us  
15 to wait here on you?

16 MR. LACEY: We're going to be bringing  
17 stuff in here, so you tell me if you want to tell  
18 the jury to take a break.

19 THE COURT: Do you guys need to go to the  
20 bathroom? Okay.

21 (The jury exits the courtroom.)

22 (Off the record.)

23 (The jury enters the courtroom.)

24 THE COURT: Show the jurors returned back  
25 to the courtroom, the presence of all counsel and

1 the defendants.

2 Mr. Lacey, you may make the rebuttal  
3 argument.

4 MR. LACEY: Thanks, Your Honor.

5 Ladies and gentlemen, on behalf of all the  
6 parties involved in this, I want to thank you.

7 You've learned a lot, a lot more than CSI  
8 Miami or whatever other shows are out there on TV.  
9 This is part of our system of justice. It's unique  
10 unto the world, and without you, we wouldn't  
11 function. We have some old timers in the courtroom  
12 that have been doing this for a while and some that  
13 are not so.

14 But again, it's part of our system of  
15 justice. Although we're key to it, you are the  
16 real catalysts for making justice happen. Without  
17 you, we don't go anywhere. It's a freedom that we  
18 have, and thank goodness that we do. On behalf,  
19 again, of all the parties, thank you.

20 When you look at why we're here, the  
21 United States has the burden of proving these  
22 charges beyond a reasonable doubt. You've heard  
23 testimony about a lot of resources that were spent  
24 during the course of this investigation, a lot of  
25 resources, planes, agents.

1           You now know that, in certain instances,  
2 to take certain crimes and go after the people  
3 involved in them is important for all of us, for  
4 the obvious reasons. People are at risk for home  
5 invasions, not just for people inside the house,  
6 but others. That's why we're here.

7           You must determine whether or not back on  
8 March 2nd and before there was a conspiracy to  
9 commit violations as charged in the indictment. As  
10 I listen to defense counsel -- and we'll talk about  
11 that in just a bit -- I think it's conceded that  
12 there was an agreement to commit a home invasion  
13 back on March 2nd here in Tucson.

14           Of course what you hear is that the  
15 Mexican contingent was involved in a conspiracy to  
16 commit these violations. I think that's, from my  
17 perspective and vantage point in listening to what  
18 I heard, that's conceded. There was a conspiracy  
19 to commit a home invasion here in Tucson.

20           There was also an attempt to commit that,  
21 as charged in Count 2 of the indictment. Count 3  
22 of the indictment is a gun violation that attaches  
23 back to Count 1, the conspiracy, and Count 4 is a  
24 gun violation that attaches back to Count 2, and  
25 it's a little confusing, but I'll try and make it

1     simple.

2             You know, it's tough going last. We've  
3     been here for two-plus weeks now, and some of us  
4     have made some sacrifices. We haven't moved as  
5     fast as perhaps you would have liked, as we've  
6     noticed, just from some expressions and such, but  
7     again, it's part of our system of justice. We need  
8     to give everyone a fair trial and present the cases  
9     on behalf of our parties, Ms. Hopkins and I, on  
10    behalf of the United States.

11            When you look at the evidence objectively,  
12    I submit to you that, as we cover this in just a  
13    minute, you will have been convinced beyond a  
14    reasonable doubt that we've proven these charges.

15            Where do we start? I guess we can go back  
16    over the evidence, but I'm not going to rehash all  
17    these key things. Ms. Hopkins covered it and  
18    defense counsel covered a lot of the events that  
19    happened between late December of '10 and March  
20    2nd.

21            In listening to Mr. Cooper get up here and  
22    talk about what had happened, a lot of mud was  
23    slung at Jorge. And indeed, it should be slung.  
24    You have to consider his testimony very carefully,  
25    and if you can't corroborate it, I ask you to take

1     it off the table. Just take it away.

2             When you look at someone like Jorge, what  
3     do we have on the table to suggest whether he was  
4     being candid with us? What did he say happened?

5             He gets a phone call from his brother-in-  
6     law Yovani back on March 2nd. Jorge knew his  
7     brother-in-law was into the cash and was doing home  
8     invasions. He thought he was being protected as a  
9     driver, wouldn't be out in the front lines, being  
10    put at risk for an initial entry into a house,  
11    where certain things are required in order to  
12    protect you or at least try and protect you from  
13    anyone inside shooting back out at you. He thought  
14    he was going to be safe outside in the car.

15            He gets a phone call from Yovani, and what  
16    does he do? He tells us about the things that  
17    happened on March 2nd. And again, just go with  
18    things that we can back up with independent  
19    corroboration. If it isn't there, take him out of  
20    the equation entirely.

21            We're told by Mr. Cooper that Mr. Tucker  
22    and Jorge are on the same par. Not even close, and  
23    we'll disclose -- we'll discuss why in just a  
24    second.

25            We have, when you look at the evidence,

1 Mayco, who is a catalyst for the Mexican  
2 contingent, dealing with Mr. Tucker, who brings the  
3 black contingent to this home invasion party.

4           What was Jorge truthful about that we can  
5 verify? He said he went to see some blacks with  
6 Mayco and his brother-in-law Yovani. He said he  
7 went to a house with blacks at the house in  
8 Phoenix. He said there was a black Escalade  
9 there. He said one of the people was limping that  
10 put on a white long-sleeve shirt. We know from  
11 testimony that Ja'Cory Ranger has a limp, as was  
12 evidenced by the patdown by the agent who was  
13 involved in his arrest and by Agent Edwards, who  
14 saw him in court on a prior occasion and saw him  
15 limping.

16           What else did he tell us, Jorge, about  
17 what happened on March 2nd? He said he went to the  
18 Circle K after driving around to Miami's house and  
19 some other occasions. Let's look to the Circle K  
20 photographs. And what does he say happened back at  
21 the Circle K in Phoenix? He said he saw the black  
22 Expedition -- black Escalade that he'd seen at this  
23 house with blacks, where he saw a gun being put in  
24 the back of it. And you'll recall later the  
25 testimony where the AK-47 was found in the rear of

1 the vehicle. Again, if you can't corroborate it,  
2 it's out.

3 What does he say he sees happening at the  
4 Circle K? If you look through Exhibit 122, he said  
5 that he saw the Escalade meet up with this red  
6 Expedition that he had not seen before at the  
7 Circle K parked side by side. What does he  
8 observe?

9 If you look to Exhibit 122 -- I'll use the  
10 Elmo. I'll keep it simple. And again, you're  
11 going to be asked to go back in deliberations and  
12 review the evidence. As Ms. Hopkins requested of  
13 you before, I'd do the same. It's tough when you  
14 go back there and you have a lot of exhibits and  
15 you try and piece them together, so taking notes  
16 now will be helpful so when you're putting the  
17 pieces of the puzzle together, as you're going to  
18 go have to do in this case later during  
19 deliberations, you'll see the connections.

20 What are we told that Yovani -- that Jorge  
21 sees, he said, at the Circle K in Phoenix? That  
22 they were loading up on, among other things, some  
23 water. Well, we find out in Exhibit 122 later,  
24 when the vehicle is searched -- and this is the red  
25 Expedition -- there is a case of water in there.

1           We also know that when they were at the --  
2 at the Circle K in Phoenix, certain things were  
3 being purchased. Now, again, let's look to only  
4 what we can corroborate with Jorge as to what he  
5 saw and what happened that day.

6           We have in Exhibit 140 -- 14-A.3 a  
7 photograph showing Ja'Cory Ranger and Josh Young  
8 inside the Phoenix Circle K at 11:28 in the  
9 morning. Again, that's Exhibit 14-A.3. If it  
10 isn't corroborated, it's off the table.

11           Now, Jorge tells us he was out in the car  
12 and only saw water being brought out and whatever  
13 else. But what do we know because of the Circle K  
14 personnel that brought us the film from the store?  
15 Exhibit 14-A.4.

16           We have three pairs of white gloves being  
17 purchased back on March 2nd, at the Circle K in  
18 Phoenix, at 11:29 in the morning by Jerome Ranger.  
19 Again, if it isn't corroborated. 11:29, gloves  
20 being purchased.

21           Now, you've got to tell yourself, how do  
22 we look in the mind of the people that were  
23 involved in this violation? How do we do it?

24           One of things you do is, direct evidence,  
25 if you see somebody doing something, crashing into



1 a home invasion, that's one thing. You've got a  
2 witness that saw it. Another thing, and you'll be  
3 instructed, is circumstantial evidence,  
4 circumstantial evidence.

5 What do we have that's circumstantial  
6 evidence to show us the mind of what was the  
7 thinking, being thought of by the people that were  
8 perpetrating this crime?

9 When you buy gloves at a Circle K moments  
10 before you get on the road and leave Phoenix and  
11 come to our city, what does that tell you as far as  
12 the state of mind of the people in that vehicle  
13 coming to Tucson back on March 2nd? Again, once  
14 you put these pieces of the puzzle together, these  
15 pictures say a lot words.

16 And what do we know also about different  
17 people that were there? Exhibit 14-A. We have  
18 Ghermon Tucker coming into the store. Now, this --  
19 I'm sorry. This is the one -- this is the one on  
20 Broadway in Phoenix at 11:28 in the morning.  
21 11:28.

22 One of the things that's really important  
23 in this case are phone records. You've seen the  
24 charts, Exhibits 113 and 114. I want to direct  
25 your attention to a few other things, and we'll

1 stay with Jorge first, just to address the issue,  
2 but then talk about some other topics.

3 What else do we have that Jorge brought to  
4 the table? He talked about driving down to  
5 Tucson. He talked about stopping before he got to  
6 Tucson at a store here in -- before he got to  
7 Tucson, close to Tucson, out of Phoenix.

8 And we have -- and pardon me playing back  
9 and forth with the equipment, and thank God I have  
10 help doing it. Old school.

11 Okay. With the Circle K in Marana, we  
12 have certain photographs that were part of our  
13 Exhibits, and you see that up there. This is on  
14 Sandario Road in Marana at 1:18 on March 2nd. Show  
15 the next image. That's image two. We can stop  
16 right there. Image four.

17 Was Jorge telling us the truth when he  
18 said he stopped outside of Tucson at a store? We  
19 have the photograph from the store. Again, if it's  
20 not corroborated, forget it. It's not part of your  
21 consideration as far as I'm concerned.

22 We have Jorge telling us that he goes to  
23 the store, they hook up with a couple of Hispanic  
24 males that were in the parking lot and were told to  
25 follow them to Food City. Jorge goes with Yovani

1 and Seco to Food City.

2           We have photographs at Food City showing  
3 Yovani, Jorge, and Seco/Mayco going into the  
4 store. Again, this is the Food City store, you  
5 recall. Seco or Mayco was in the front, Yovani  
6 just behind him. And the next -- and here is  
7 Jorge.

8           Again, this is Exhibit 14-C. And as  
9 you're putting these exhibits together during  
10 deliberations, it's important to make notes so  
11 you'll be able to see the connections. 14-C is  
12 Food City here in Tucson back on March 2nd with  
13 Jorge going into the store. Was he telling us the  
14 truth about that? Again, pictures, forgetting what  
15 he said, spell it out.

16           What happened next? He tells us that he  
17 hears about his brother-in-law, whose car he,  
18 Jorge, is driving and Seco/Mayco, that they got  
19 stopped. They get arrested. He then takes off in  
20 a rather panicked state, as you can imagine. He  
21 may be 20 now but he was 19 then.

22           He hops in the car, Yovani's car, and he  
23 leaves. He goes over ultimately to a Circle K here  
24 in Phoenix (sic). And we see photographs and we're  
25 going to see them again just in passing to show you

1     what you can believe as far as what Jorge told us.  
2     Circle K in Tucson -- sorry -- back on March 2nd.

3             You've got 61-G, as in George. And again,  
4     take notes. It'll be helpful for you later. Jorge  
5     told us that he went to the Circle K before he  
6     headed back out of town. He headed there after the  
7     Food City incident because he saw Seco's or Mayco's  
8     brother-in-law getting pulled over. He had just  
9     seen that brother-in-law at Food City moments  
10    before.

11            Now, whether that happened or not,  
12    irrelevant. I want you to stay with the facts you  
13    can see, you can taste, you can feel.

14            61-G, we have -- and if you can focus in  
15    on that square there -- we have Jorge telling us  
16    that, yes, this is him. Forget what he tells us.  
17    61-G, it's Jorge at the Circle K in Tucson back on  
18    March 2nd.

19            We also have off to the left, we have had  
20    Agent Edwards tell us that this is Mr. Ghermon  
21    Tucker off to the left wearing the white hat from  
22    the Diamondbacks, as I believe it was.

23            Jorge tells us he met up with the blacks  
24    again at Circle K here in Tucson, and he told them  
25    they got arrested, they got stopped. He then takes

1 off, Jorge does.

2           You say to yourself, why? Why did he,  
3 Jorge, take off. Well, you know that he had to  
4 believe -- I submit to you he had to believe that  
5 arrests had taken place. He's in his brother-in-  
6 law's car saying goodbye to our fair city and  
7 heading back to Phoenix, without any the guns in  
8 the car, leaving his brother-in-law and Seco  
9 behind.

10           I submit to you that says one thing,  
11 circumstantially. He knew or believed that they  
12 had been arrested and that the information that he  
13 heard from Seco's brother-in-law was true. It  
14 makes all the sense in the world. And again, we  
15 all have common sense that we bring to the table in  
16 these types of cases and in our lives.

17           Why did we have the blacks stay at Food  
18 City for some minutes after they heard this initial  
19 talk about they we're stopped? When you're coming  
20 down from Phoenix expecting to do a certain job  
21 here in our town and you're told that, oh, by the  
22 way, the people you came down with to help the  
23 Mexican crew, they've been arrested, you've got to  
24 be saying yourself, I submit to you, and this is a  
25 very logical explanation, hey, maybe they're doing

1 it without us.

2           Maybe they left us behind. Maybe we  
3 shouldn't leave, and we'll try and see if it's just  
4 a con job or a cover up. We brought all this stuff  
5 for the party. We want to go to the party. Why  
6 should we leave?

7           What does Jorge do next? He takes off.  
8 He tells us about his trip back to Phoenix. And  
9 again, if you can't corroborate it, don't look at  
10 it.

11           We have Jorge telling us -- and there was  
12 a transcript ordered. You're not going to have  
13 this during deliberations, but counsel have a copy  
14 of the transcripts of his testimony. That is  
15 Jorge's. I want to show you one of the pages of  
16 this, and I have to flip back.

17           A big to-do was made about Jorge and  
18 whether he was being candid about the times frames  
19 about where he was pulled over by the police. When  
20 he was first asked about this -- and put yourself  
21 in the shoes of this 19-year-old kid.

22           He comes to Tucson with his brother-in-  
23 lawing, expecting his brother-in-law and others to  
24 do a home invasion. He's going to get 2,000 bucks  
25 for driving the car. His brother-in-law is

1     supposed to be arrested. What does he do?

2             Well, as most people in that situation, he  
3     panics. He calls his sister, and he says, what do  
4     I do. Is he scared? I would hope so. Here you've  
5     got a 19-year-old kid coming to our town to assist  
6     in a home invasion.

7             "She's like, nothing's going to happen.  
8     Let's go. So we went passing the bridge. They  
9     pull us over."

10            And you heard about, from the trooper,  
11     about how he stopped him by the bridge up in  
12     Phoenix, before you get to Phoenix, on the  
13     outskirts.

14            "Did you meet up with her before you got  
15     stopped?"

16            "Yeah."

17            "Where did that take place?"

18            "At a little liquor store."

19            And you recall the testimony of the  
20     trooper about the smoke shop store that he saw them  
21     at just before he pulled them over.

22            Question, "In the Phoenix area or  
23     someplace else?"

24            "No, going to Phoenix."

25            That was his testimony.

1 "Where"?

2 "I was going to Phoenix."

3 Skipping on to another page in the  
4 transcript. "And what you did is, you went to a  
5 place called 51st Avenue in Phoenix; right?"

6 "Right."

7 "So that's I-10 and Riggs Road; right?"

8 "Right."

9 Here you've got some kid that's never been  
10 to Tucson before being led down the path on cross-  
11 examination about what road it was that he went  
12 to. It was before Phoenix.

13 But again, it's a non-issue. He was  
14 pulled over. We know where he was pulled over.  
15 The time frame, as you heard from Agent Edwards  
16 when we looked at that time chart, fit to a tee.  
17 Where the stop took place of the blacks by Casa  
18 Grande, some 20 or so miles up the road was where  
19 Jorge got pulled over.

20 It fit exactly or close to exactly with  
21 the time frame of where someone would have gone  
22 from one milepost to the next during that time  
23 frame. Was he on 51st Avenue, as he was asked  
24 about on cross-examination? Obviously not.

25 Again, I don't want you to believe



1 anything that Jorge says if it's not corroborated.  
2 And I've shown you some of that corroboration.

3 One thing you'll also notice -- I'll do it  
4 here because I hate playing ping-pong with going  
5 back and forth here. We have 61-E. And again,  
6 please take notes as we're doing this.

7 61-E, as in Edwards, you have a vehicle,  
8 Yovani's vehicle, as we've heard testimony about,  
9 at the Circle K here in Tucson back on March 2nd.

10 We have in this Jerome Ranger and Ghermon  
11 Tucker depicted in this photograph. We've already  
12 seen in 61-G the photograph of Jorge and Ghermon  
13 Tucker, again, at the same Circle K here in town  
14 back on March 2nd.

15 Now, what's going through the minds of the  
16 people that came to town to do what they were going  
17 to do? Did they believe Jorge when he said, oh, by  
18 the way, they got arrested? Obviously not. What  
19 did they do?

20 And again, in order to look into their  
21 minds, look at the action that they followed and  
22 what they did do. On March 2nd, at the Food City,  
23 after first hearing about this supposed "they got  
24 stopped" from Jorge, they stuck around for 15, 19  
25 minutes, whatever it was, a short period of time

1 before they took off.

2           They then went, ultimately, to the Circle  
3 K, bumped into Jorge, again, by happenstance. He  
4 again reiterated what he had told them before,  
5 "They got stopped."

6           Now, what are you thinking? If you're all  
7 prepared to go to a party here in town and do what  
8 you're going to do, do you really want to put your  
9 tail between your legs and drive back to Phoenix,  
10 or do you want to score what was going to be a  
11 million-dollars-plus hit of cocaine and cash here  
12 in Tucson?

13           I submit to you that the blacks,  
14 Mr. Tucker, the Rangers, did not believe Jorge when  
15 he told them about the arrests. How do we know  
16 this? How do we know there was disbelief on the  
17 part of the people that brought all these armies to  
18 our city from Phoenix?

19           Because what do they do? They leave the  
20 Circle K, get on the freeway, start heading back  
21 towards Phoenix, but not too far. The testimony  
22 was, and they were followed the whole way, that  
23 they get off at Prince Road, went under the  
24 underpass, and came right back down into our city  
25 and went to the Food City down Sixth Avenue here in

1 south Phoenix -- South Tucson. That again tells  
2 you what's going on in the minds of the people that  
3 came to our town with all this stuff.

4           There was talk about what happened back on  
5 February 4, and it's important up to a point,  
6 although the real events of March 2nd spell out  
7 everything. A so-called planning meeting was  
8 taking place up in Phoenix. What do we know about  
9 this? And again, you're going to have -- certain  
10 transcripts were generated as we heard the  
11 conversations here in Court.

12           Now, bear in mind, when you go back to  
13 deliberate, I don't believe you're going to have  
14 those transcripts and recordings with you, and this  
15 is important. You're not going to have Exhibit 2  
16 and 2-C, the transcript, with you in  
17 deliberations. But if you have any questions, and  
18 I submit that you will, all you have to do is, in  
19 writing, request to be able to examine 2-C, as in  
20 Charlie, and you'll be brought back into the  
21 courtroom, Nicole Williams will assist, and you'll  
22 be able to review at that point Exhibit 2-C.

23           You're not going to have it with you in  
24 deliberations so it's important to remember that.  
25 2-C is important for a lot of reasons. It's the

1 February 4 meeting that was recorded back in  
2 Phoenix.

3           When you look at the transcript, which I  
4 have here, we heard some words mentioned in  
5 English, most in Spanish. We heard about Chivo and  
6 that no one said that he spoke English. So here we  
7 have our CS, who's trying to do some help for the  
8 FBI, and people that are involved in very, very bad  
9 activities, penetrating that organization.

10           What do we have? We have him speaking in  
11 Spanish primarily. But it's important to note  
12 certain things that happened leading up to this  
13 meeting on February 4. A black male, I submit  
14 Mr. Tucker, now, they talk first -- Gollo talks  
15 about the guy who is bring -- this is El Azul's  
16 son -- the guy who is very powerful.

17           The black male, Mr. Tucker, "My homeboy,  
18 he got his house out there." "He got his house out  
19 there." And this is important for a couple of  
20 reasons. First, it's in English, but it's also  
21 acknowledging on the part of the speaker that he  
22 knew what was going on. They're talking about  
23 Tucson.

24           And again, common sense, and dissect this  
25 as you go through your analysis of the evidence,

1 and when you do, you'll see why I'm putting this in  
2 front of you now to help you during deliberation,  
3 Exhibit 2-C, as in Charlie.

4 Mayco says -- first, Mr. Tucker, "My home  
5 boy, he," not Mr. Tucker, "he got his house out  
6 there."

7 Mayco, "No, we don't."

8 Mr. Tucker, "Oh, you do?"

9 They shift gears. Now, bear in mind, this  
10 is an introductory meeting for some of the parties  
11 involved in this future event to discuss 65 kilos  
12 of coke that's worth a million dollars plus. You  
13 heard probably close to two and a half at 20,000  
14 bucks per kilogram, as the testimony was.

15 What do you have happen next? They're  
16 bragging, trying to assure the CS that everything  
17 was cool, that they would be able to perform what  
18 they said they could do, and they're trying to puff  
19 up a little bit with Mr. Tucker.

20 This is Mayco saying -- first the CS, "You  
21 can go the day before. Are you familiar with  
22 Tucson?"

23 Mayco, "No, this guy is from over there,  
24 Tucson."

25 So Mayco's trying to hype it up when, in

1 fact, Mr. Tucker just moments before said, "My  
2 homeboy, he got his house out there." Again,  
3 little things, but if you dissect it, it will paint  
4 a picture as to what was going on.

5 Mayco is claiming, "He is from over  
6 there."

7 Gollo then says, "My son is familiar with  
8 Tucson."

9 One of the most insightful exhibits you're  
10 going to have as to the 2/4 event and who was  
11 present is Exhibit 113, and perhaps we can -- I can  
12 do it on here. Exhibit 113, again, you're going to  
13 have this during deliberations, but this is really  
14 insightful as to what happened back on February 4.

15 We know about all the cell phones that  
16 were gathered up on March 2nd from the Escalade and  
17 the Expedition from our various defendants. When  
18 you look to what was happening, we have, at  
19 11:51 -- and you may want to take some notes on  
20 this. The testimony is here, but as you've been  
21 getting it, it's been sitting in the middle of all  
22 these facts. Sometimes you lose track of how it  
23 fits together. And that's part of our jobs is to  
24 try and lay -- put an outline for you to follow  
25 during deliberations.

1           Exhibit 113. At 11:51, the source arrives  
2 at Chivo's workplace for this so-called planning  
3 meeting. That's 11:51. Now, what do we have  
4 earlier that day? We have, first off, at  
5 1:01 a.m., a call that apparently didn't go  
6 through. But this is Jerome Ranger, his phone  
7 calling Mayco's phone.

8           What does that tell us? Well, it tells  
9 us, first off, that Jerome Ranger is connected to  
10 Mayco, our home invader that was arrested in the  
11 warehouse. That's one thing it tells us.

12           What else does it tell us? If you look  
13 down, we see at 11:34 in the morning, shortly  
14 before the 11:51 arrival of our CS, Mayco was  
15 calling Gollo. He's Mr. Big in all of this, as  
16 you'll gather from the testimony you've heard and  
17 the transcripts you've seen. Gollo is running the  
18 show for the Mexican crew involved in this.

19           You then see Mayco calling Mr. Tucker at  
20 11:37 for 42 second, at 11:41 for 43 seconds, and  
21 11:45 for 48 seconds. This is six minutes before  
22 the CS arrives at this meeting. Again,  
23 circumstantial evidence. When you put all these  
24 pieces together, it paints only one picture, as  
25 we'll discuss in just a minute.

1           You have then Mayco calling at 11:49 to  
2   Gollo and several calls to Gollo up until 11:53.  
3   Again, the source arrives at 11:51.

4           At 11:54, Mayco arrives in a green  
5   Explorer to the meeting. That's 11:54 at the 2/4  
6   meeting, Mayco arrives, per the testimony.

7           At 11:54, Mayco is again calling  
8   Mr. Tucker. Right as Mayco arrives, his phone is  
9   calling Mr. Tucker's phone. And again, follow the  
10  pieces of the puzzle as they're being put  
11  together. You're going to need to look at these  
12  carefully during deliberations to see exactly what  
13  happened back on 2/4.

14          At 11:55, Mayco -- and that's 16 seconds  
15  at 11:54. A minute later, Mayco is again, outgoing  
16  call to Mr. Tucker, 11:55 for 34 seconds. Mayco  
17  has already arrived at 11:54, a minute before.  
18  What is he doing? Is he giving directions to  
19  Mr. Tucker as to how to get there? I submit that's  
20  the logical conclusion you can draw.

21          Again, the phone records don't lie. They  
22  don't bring the baggage that Jorge brought with him  
23  about his involvement in this. These are phone  
24  records and connections between these parties and  
25  the other parties that they were in cahoots with.



1           At 11:55, Mr. Tucker, we submit, arrives  
2   in a black Cadillac registered to him, and you have  
3   the registration documents showing that the vehicle  
4   that arrived at 11:55 on 2/4 was Mr. Tucker's.

5           I submit that paints only one picture with  
6   all these calls leading up and connecting between  
7   Mayco and Mr. Tucker back on 2/4 and Mr. Tucker's  
8   car showing up at exactly 11:55, the same time as  
9   the last phone call with Mayco about how to get to  
10  where the meeting was taking place.

11           If you look to 12:07, you see Gollo  
12  calling the CS. Well, the meeting is still going  
13  on. But when you look to the transcript, and we'll  
14  do that in just a bit, you see at the meeting  
15  that's going on, that's being recorded back on 2/4,  
16  at the end of the meeting, Gollo and the CS are  
17  discussing a number and exchanging it in a recorded  
18  -- in a recording.

19           And at the same time, there's a phone call  
20  between the CS and Gollo, for the obvious reason.  
21  They're putting the number into the phones so  
22  they'll have future contact with each other.

23           After this meeting was over, Mayco then  
24  calls Gollo, as we talked about, at 12:19. Jerome  
25  Ranger then plugs in at 2:14 with Mr. Tucker,

1 incoming call. So we have Mr. Tucker's phone  
2 calling Jerome Ranger's phone that same day, at  
3 2:14 p.m. on February 4 and lasting two minutes and  
4 six seconds.

5 What's Mr. Tucker telling Jerome Ranger at  
6 that time? We know what he discussed, and we've  
7 talked about that previously, about the  
8 conversation that took place in English and in  
9 Spanish.

10 At 2:31, about 15 minutes later, Jerome  
11 Ranger has another call from Mr. Tucker that lasted  
12 a minute and 59 seconds, again on February 4.

13 There were several other calls on February  
14 4 where Mayco is receiving a call from Mr. Tucker  
15 at 5:08 for a minute and other calls thereafter.  
16 That's for 2/4.

17 We discussed a little bit Exhibit 2-C, as  
18 in Charlie, that you'll again have to ask for  
19 during deliberations, where they're talking about  
20 65 kilograms. It can't be any more clear at this  
21 meeting what's being discussed. And it's not just  
22 65 kilograms. It's the CS saying 65 kilograms of  
23 cocaine. That's what's on the table at the 2/4  
24 meeting for all that happens thereafter as far as  
25 imputing knowledge of what was going to be the goal

1 for this operation. On 2/4 they discussed cocaine,  
2 65 kilograms. That's 2/4 with Mayco and Mr. Tucker  
3 present at that meeting.

4 Gollo then says 65. Mayco then says, "My  
5 friends, we can just bring it in."

6 The CS, "I rent houses and everything."  
7 Again, this is 2/4. And we talked about Mr. Tucker  
8 saying, "My homeboy, he got his house out there."  
9 Also in the 2/4 meeting, Mayco was saying there are  
10 65 kilos of, again, the CS saying cocaine. Mayco  
11 then says, "Of cocaine?"

12 "Yes."

13 Mayco, then in English, because this is in  
14 italics, and when you -- if you do come back and  
15 look at the transcripts during your deliberations  
16 here in court, when you see the italics, it's in  
17 English. Mayco's then saying, "Oh, there may be  
18 some birds."

19 Mr. Tucker, "Okay."

20 Mayco is then saying "65."

21 Mr. Tucker is saying, "Yeah."

22 That's the 2/4 meeting about what's going  
23 to happen later and what knowledge is placed into  
24 the minds of the people involved in this incident.

25 Another exhibit you will not have with you

1 in deliberations, but again, you can ask for it,  
2 and I submit you should, because if you're going to  
3 get a complete picture, you really have to have  
4 ahold of this transcript and review it as you're  
5 discussing these key events.

6 Exhibit 44-B, as in boy, is the exhibit  
7 number, and that's the recorded wire that was  
8 prepared on -- that was worn by the CS back on  
9 March 2nd, Exhibit 44-B. You'll have to ask for  
10 that specifically as to March 2nd.

11 JL, that's Chivo, "Well, he is going to  
12 give Mayco some money too because he brought some  
13 people with him."

14 Again this, is March 2nd. We left  
15 February 4 behind where they talked about 65 keys  
16 of coke and, "My homeboy has a place down there."  
17 This is March 2nd now, looking at some of the  
18 transcripts, about who knew what and who was  
19 involved in this incident back in Tucson on March  
20 2nd.

21 Chivo is then saying, "Well, he is going  
22 to give Mayco some money too because he brought  
23 some people with him."

24 We know who Mayco's connection is. You've  
25 got the phone records from Exhibit 113, back on

1 February 4, the phone records showing the  
2 connections. And again, you have to put all these  
3 pieces together, but they're there.

4 "He brought some people with him."

5 "Did he" -- and I hate -- you know this --  
6 this language shouldn't be used, and I apologize,  
7 and for a lot of reasons, it's totally improper.  
8 The language was brought to the table by Chivo and  
9 Gollo, and the CS played along. It doesn't belong  
10 in this courtroom, and I can't say anything more  
11 about it.

12 But we're not to be diverted from the  
13 facts. We stay with the facts, and what's over  
14 there as far as derogatory terms, again, it's  
15 nothing that we embraced, but it's here.

16 "Did he bring the...who went over  
17 there?" says the CS.

18 Chivo says, "I think so."

19 This, again, is on March 2nd, a body  
20 recording worn by the CS back on March 2nd.

21 CS, "Which car did Mayco bring?"

22 Chivo, "I don't know, man. I didn't see  
23 him. All he told me was, we're all here. Everyone  
24 is parked here at Food City." "Everyone is parked  
25 here at Food City."

1           Again, you have the pieces, I submit, and  
2 when you put them together, it only paints one  
3 picture as to what was going on in the minds of the  
4 people that were here back on March 2nd. The  
5 pieces are here. Please connect them when you look  
6 at the evidence.

7           "I don't know, man. I didn't see them.  
8 All he told me was, we're all here. We're all  
9 parked at Food City."

10           Again, part of the March 2nd recording.  
11 "Are you going to take the kids?" says the CS.

12           Gollo -- Gollito, "Oh, well as soon as  
13 Mayco looks at the picture and gets a good look."

14           Well, what do we know? Mayco was looking  
15 at the picture. In fact, he had it at the time of  
16 his arrest back on March 2nd, in his pocket.

17           What does that tell you? It tells you,  
18 and when you look at the recorded conversations and  
19 put the pieces together, why would all the people  
20 in the warehouse, Chivo, Gollito and the other, why  
21 would none of them have the picture, but only  
22 Mayco? Because he brought his people, and they're  
23 at Food City.

24           The CS and the FBI discussed the game plan  
25 as to how to -- how to get the people to a safe

1 location for the arrest back on March 2nd. You  
2 don't want this happening in some residential  
3 neighborhood for obvious reasons and possible  
4 consequences.

5 "Are you going to take the kids?" as soon  
6 as Mayco looks at the picture and gets a good  
7 look. Why does Mayco of all people get reference  
8 here as to having a good look at who's going to be  
9 the victim of the kidnapping at this house of this  
10 big drug lord's son?

11 "How many people did you say? How many  
12 are there?"

13 "No, well..."

14 And again, you'll have the entire  
15 transcript. It's going to be tough because when  
16 you come back to court to see it, it's going to go  
17 fast, and you may have to ask for it to be stopped  
18 along the way so you can digest the words, as we're  
19 dissecting them here for you, but do what you've  
20 got to do to make sure you've got a firm grasp on  
21 all the facts before you decide this case.

22 Mayco -- this is after Mayco arrives at  
23 the warehouse, where the arrests are going to take  
24 place in a little bit.

25 "You can before -- as soon as we get

1    there, man, as soon as we go, boom, we'll go,  
2    police, police."

3               Now, you'll recall earlier -- why is this  
4    important? Well, the Mexicans can't go to the  
5    house -- and put yourself in the mind of the victim  
6    that's possessing 65 kilograms of cocaine. If you  
7    have someone banging in the door, Yovani, who's  
8    going to crash through it and wind up in the living  
9    room, and that's in the transcript, what are you  
10   thinking?

11              Well, if you're thinking some bad guys are  
12   going to start ripping us off, you're going to  
13   start shooting, and we heard about the guns that  
14   were supposedly inside this house. And again,  
15   you've got to put the picture together and live it  
16   as though you were in the minds of the victims or  
17   the perpetrators, as the case may be.

18              So what are you thinking? As you go boom,  
19   boom, police, police, if you're inside and you hear  
20   police being spoken in Spanish, policia, policia,  
21   well, guess what? You would start doing something  
22   you think you should do.

23              But if you have someone that's yelling  
24   police and looking like a policeman, guess what?  
25   You're going to hesitate before you start shooting



1 at the people that are crashing through your door.

2           Again, don't leave your common sense  
3 behind when you put together how this fits  
4 together. When you're inside, if you're the  
5 victims of this home invasion and you hear police,  
6 you're going to hesitate before you start shooting  
7 at the people coming through the door.

8           That hesitation gives the people that are  
9 coming in equipped with certain things time to get  
10 in there and stop you before you start pulling the  
11 trigger, as you may do if you think it's policia,  
12 policia, and not really coming through the door.  
13 Why do certain people get used in this case who  
14 happen to speak English? There's an obvious  
15 reason.

16           Mayco again, "I'm going to talk to -- I'm  
17 going to be in charge of the people." This is  
18 Mayco talking at the warehouse. "I'm going to be  
19 in charge of the people." Well, we know back on  
20 2/4 who Mayco was in charge of, as he had  
21 Mr. Tucker come to the meeting in his own car.

22           Now, you may not have recordings of the  
23 people that were going to be Mayco's people. The  
24 CS was recording the events that he had and the  
25 exposure he had with the Mexican people he was

1 exposed to. He wasn't dealing with Mr. Tucker or  
2 the Rangers or the other blacks that came down from  
3 Phoenix with all this armament. Again, common  
4 sense. Put all the pieces together as you're  
5 dissecting this case.

6           A big to-do was made about the number of  
7 bullets that were in the guns. And frankly, I was  
8 a little miffed, but when you look at the facts in  
9 this and you see that there's 160, 180 bullets in  
10 these various guns, you don't need to have a full  
11 30 bullets in the clip that goes with this weapon  
12 or 20-plus in the other weapon.

13           You don't have to have them fully loaded.  
14 What's going to happen back on March 2nd, if this  
15 were a real event and wasn't a sting operation to  
16 catch people involved in doing this home invasion?  
17 When you crash through the door adequately  
18 prepared, you're not going to have a shootout,  
19 hopefully. If you do, well, then all bets are off,  
20 at least for people that are not wearing vests and  
21 that get shot in someplace other than the chest.

22           What's going to happen is happening in  
23 milliseconds. As you crash through the door,  
24 either people are going to stop and you're going to  
25 have the drop on them or not. That's what's going

1 on. Put yourself inside this house.

2 If someone's got only 22 bullets, and I  
3 say "only" facetiously, guess what? If you start  
4 pulling the trigger, 22 bullets in just one of  
5 these guns is going to go pretty darn fast from one  
6 of these semiautomatics. I'm not a gun guy, but it  
7 doesn't matter. What matters is who brought these  
8 guns to the table. Whether there are 22 or 23 or  
9 30 bullets, it's of no consequence. They had 160,  
10 180 bullets in these various guns that they brought  
11 to Tucson to do a home invasion.

12 There was a lot of conversation and a lot  
13 of summation that dealt with if they're coming or  
14 they're not coming. You recall the 2/4 meeting.  
15 They were coming. They were going to be used  
16 because they could gain entrance and not have it  
17 come back to the CS when this big drug lord's son,  
18 whom the CS knew supposedly, was kidnapped and the  
19 drugs taken.

20 There was a reason for not having the  
21 Mexicans go through there, but rather the blacks,  
22 so that there would be a buffer, so that the  
23 people, when they heard -- when this so-called drug  
24 lord in Mexico heard about the rip, he wouldn't  
25 start thinking it would come back to our CS or

1 anyone else that was Hispanic.

2 It changed a little bit on February 22nd  
3 at the meeting we've heard testimony about. What  
4 happened there? The transcript's not in evidence,  
5 but you heard some references to it during trial  
6 and also from the CS. What does he tell you? He  
7 says, "They said the blacks aren't coming." That  
8 was at the February 22nd meeting.

9 But he went on and said something else.  
10 I'll call him Tony, the CS, he said, "The blacks  
11 aren't coming. They're doing another job up  
12 north," at the February 22nd meeting.

13 Now, the Mexicans that were in touch with  
14 the CS didn't know when this crossing was going to  
15 take place and the drugs coming to our city. They  
16 didn't know if it was going to be February 23rd or  
17 the 24th.

18 And if somebody's up north doing another  
19 job, obviously they're not going to be ready the  
20 22nd or 23rd or 24th, perhaps, but when you go to  
21 March 2nd, some week-plus later, guess what?  
22 Things change.

23 You'll also see when you look through the  
24 phone calls, they are coming, they're not coming.  
25 Even the day of, you see Chivo talking, "I don't

1 think they're coming." But that changes, of  
2 course, as we look at the transcript, as things get  
3 closer to coming together back on March 2nd.

4 Exhibit 2-C, as in Charlie. Gollo, "If  
5 there is someone at the house, they see these  
6 guys." That's what we just talked about. Again,  
7 this is a recording at the 2/4 meeting in Phoenix  
8 that you have in evidence that you'll have to ask  
9 for.

10 "Yes, the black guys."

11 "We're only taking these guys," says  
12 Mayco. Again this, is Mayco on 2/4. "We're only  
13 taking these guys."

14 CS, "Only blacks?"

15 Mayco, "Only black dudes will be there."

16 Gollo, "You can trust them."

17 Again, they're trying to convince the CS  
18 that, hey, we've got this under control. We can  
19 trust them.

20 "That's why there's no problem with me."  
21 This is Mayco talking, and he's talking about  
22 Mr. Tucker. Remember, Mayco arrived and then  
23 shortly thereafter a black male, Mr. Tucker, as we  
24 know from the phone records and his car and his ID  
25 by the CS here in court.

1            "That's why there's no problem with me.  
2 I've known him since we were kids."

3            Whether it's true or not, he's trying to  
4 show and assure the CS that this is what's going  
5 on.

6            "Well, then, dude, so you have somebody  
7 who will buy everything?" This is the CS asking.

8            Gollo, "The buyers are here in Phoenix."

9            Now, they're talking about the cocaine.  
10 After they rip off the 65 keys, what are they going  
11 to do with it? Well, they'll want to sell it,  
12 obviously, as you'll see discussed here.

13           Gollo says, "The buyers are in Phoenix."

14           The CS, "And how much are they paying for  
15 the cocaine? About 20 something; right?"

16           Mayco says, "About 20."

17           Gollo, "About 20-22."

18           So we now have a price established for the  
19 65 keys of coke when you want to put a value on  
20 what's on the table for this particular case and  
21 why all these people came down from Phoenix to our  
22 city back on March 2nd.

23           CS. CS, "If you want -- did Mayco come or  
24 not?"

25           And this is on March 2nd. This is Exhibit

1 44-B, so I want to make sure we make the transition  
2 from 2/4, where we just left, to 3/2.

3 CS, "Go ahead and bring those two men.  
4 That way we can talk to them, and someone can be  
5 made responsible for the kid and my cousin."

6 Now, you recall there was some talk about  
7 who's going to come and did everybody come to the  
8 warehouse to get arrested. Well, obviously not,  
9 but let's follow this transcript and see why and  
10 see how it fits together about how only some  
11 representatives came and others didn't. Again,  
12 Exhibit 44-B.

13 CS says, "Go ahead and bring those two  
14 men. That way we can talk to them, and someone can  
15 be made responsible for the kid and my cousin."

16 CS, "Yeah, man. If you want, go ahead and  
17 bring Mayco and Gordito so that I can give them  
18 that because I don't want to any...this guy is  
19 going to come right now."

20 So here's the CS saying bring Mayco and  
21 Gollito, Gollo's son. They already had talked  
22 about -- and there is talk on March 2nd about there  
23 is a whole boatload of guns and people back at Food  
24 City with five cars.

25 And the CS is asking to bring two of the

1 representatives to the warehouse, bring Mayco and  
2 Gordito.

3 Chivo, "And so a lot of people came?"

4 CS, "Yeah, he brought -- yeah, man.

5 That's the problem, huh?"

6 "Yeah, well, there are only six."

7 There were six guys, and this is when  
8 they're talking about how many people are inside  
9 the target house, the target of the home invasion.

10 "But why did they bring so many,  
11 man?" says the CS.

12 Chivo, "I don't know, man. We would have  
13 to talk to Gollo. Well, we can talk to Gollo once  
14 the job is done."

15 "But you guys are going to leave right  
16 away? Are you wanting to take the kid or not?"

17 That's what they were thinking of doing,  
18 but they have to wait and see what Gollo says.  
19 Whatever Gollo says is what's going to be done. If  
20 he says bring him, then the guys will do it.

21 We know from this conversation from Chivo  
22 that Gollo's calling the shots back on March 2nd  
23 about what's going to happen as far as kidnapping  
24 here in Tucson.

25 Same conversation, same recorded meeting.



1 CS is asking, "What about Mayco?"

2 Chivo, "Well he is going to give Mayco  
3 some money too because he brought some people with  
4 him."

5 And we talked about this before, "Did he  
6 bring..."

7 "I think so."

8 So Chivo's obviously not in the full loop  
9 about who is in tune to what's going on. Gollo is  
10 the one who is pulling the strings from Phoenix  
11 with his local son here as the representative.

12 And we talked about this as well, "Which  
13 car did Mayco bring?"

14 "We're all here. Everyone is parked at  
15 Food City."

16 And again, Mayco, "I'm going to talk --  
17 I'm going to be in charge of the people."

18 And again, we've talked about this,  
19 "they're going to show the picture to all those  
20 guys right now," says Mayco, all the guys that he's  
21 brought with him to this event.

22 There was some testimony about the  
23 quantity of drugs involved. We've seen at the 2/4  
24 meeting where it's 65 and it's 65 later. For  
25 whatever reason Jorge thought there was 50 keys

1 involved, and maybe that's what he was told. Maybe  
2 the Mexicans were trying to shortchange the blacks  
3 that they brought into this conspiracy and keep the  
4 balance to themselves. It doesn't matter in the  
5 scheme of things.

6 Jorge testified back on August 15,  
7 question, "What did Seco then tell you after the  
8 meeting with the black males inside the house?"

9 Answer, "That they were going to go half,  
10 half of the drugs with them and half to Seco."

11 "Half of the 50?"

12 "Yeah."

13 Again, whether that's true or not, it's of  
14 no moment whether it's 50 or 65. They came to  
15 Tucson for a purpose.

16 "Mayco was going to give half of the drugs  
17 to the blacks?"

18 "Right."

19 And again, I'm not going to repeat it, but  
20 we talked about the 65 kilograms already.

21 The CS told one thing when he was on the  
22 stand that was pretty insightful. He testified he  
23 didn't know who was going to show up on March 2nd  
24 but that whoever did show up was coming here to  
25 partake in this home invasion because he heard yes

1 and no as to whether certain people were going to  
2 come.

3           We heard some summation talking about  
4 DNA. You heard from Agent Edwards. Why is DNA  
5 important in this case? Well, you know, you watch  
6 CSI -- or some people do. I'm not there, but for  
7 those that do, I guess it's a pretty helpful tool  
8 about who touched certain weapons or who touched  
9 certain vests.

10           But when you have your hand in the cookie  
11 jar and you're caught with it in the cookie jar,  
12 guess what? You don't need DNA to see whose hand  
13 was in the cookie jar or on the cookie jar or had  
14 the cookies in his hand or in his vehicle. It  
15 speaks for itself.

16           Similarly with fingerprints. They came  
17 back -- the guns were tested. They came back  
18 negative. What does that tell you? It tells  
19 you -- because we heard oftentimes you don't get  
20 prints off of guns. Well, we know obviously people  
21 picked up the guns put them in the vehicles and  
22 they were there. They had gloves for later.

23           And let's talk about the gloves for a  
24 minute. Why did they buy these gloves? Why did  
25 Mr. Jerome Ranger buy the gloves back on 2/1?

1 Mr. Cooper says, well, when you go and do a home  
2 invasion, the people you're going to attack,  
3 they're not going to call the cops.

4 Well, that may be for two reasons: One,  
5 they're afraid; or two, something else happened.  
6 And again, we're here for serious business, as the  
7 Court's told you, despite the laughter, and I've  
8 laughed with all of you and with the Court when  
9 this happened, but this is serious business, and  
10 the people involved in this are involved in  
11 serious, serious crime.

12 Why is it important to not leave  
13 fingerprints inside of a house and wear gloves?  
14 Well, guess what? If you go inside the house and  
15 something doesn't go quite right when you yell  
16 police, and they don't happen to put down their  
17 guns and say okay, but rather something else  
18 happens and there's a shoot out, guess what happens  
19 when bullets start to fly? Certain things as a  
20 consequence from that happen. People get shot.  
21 People get killed. Homicide investigations.

22 Do you want to leave your prints inside of  
23 a house? They might not call the cops if you  
24 ripped off their drugs, but guess what? If  
25 somebody was killed, there's going to be a police

1 investigation. If you leave prints, you've got  
2 some issues.

3 The CS was paid a lot of money, a lot of  
4 money. How do you get around it? It's a business  
5 I wouldn't want to be in and I submit that you all  
6 wouldn't want to be in. It's a very, very risky  
7 business when you put yourself in a position, a  
8 compromised position, an exposed position, to  
9 people that are involved in home invasion.

10 What do we know from Roberto? Roberto was  
11 talking about -- bragging to Chivo that he was  
12 (gesturing) somebody's head off for 5,000 bucks.  
13 This is what the CS is involved with. For 108,000  
14 bucks or 110, okay, I submit to you that most  
15 people wouldn't be doing it. No amount of money is  
16 worth putting yourself at exposure to the kind of  
17 people Roberto and Chivo were involved with.

18 Whether it's true or not or Roberto was  
19 bragging to Chivo, that's what the CS is involved  
20 with. If he got paid 108,000 bucks, more power to  
21 him. The people involved in these types of crimes,  
22 I submit to you, we should be paying a lot more  
23 than that to get this off the streets and the  
24 people involved in these crimes off the streets.

25 When we talked about the state of mind of

1 the various people, the phone calls are very, very  
2 important. When you look at the phone calls -- and  
3 what I did for 3/2, that's Exhibit 114. And again,  
4 you'll have that with you in deliberations. But I  
5 broke out the calls by person to make it easy for  
6 you to digest this.

7 But in Exhibit 114, you'll have all the  
8 records and the time frames of these calls going  
9 back and forth. That paints a very, very clear  
10 picture about what was going on.

11 Here's Mr. Jerome Ranger's calls back on  
12 3/2. These were extracted from Exhibit 114 to give  
13 you a little chronology about what Mr. Jerome  
14 Ranger was up to that day with his phone.

15 Starting it at 12:07 a.m., an outgoing  
16 call to his brother Jerome. 12:08 the same thing.  
17 Pretty short in duration. Probably no  
18 connections. But this went on for some period of  
19 time, and these were outgoing and then incoming.  
20 So you can see Jerome Ranger calling his brother  
21 back during certain key time frames back on March  
22 2nd.

23 So one thing you may want to consider  
24 doing is putting your own little time line together  
25 with these events and when certain things

1 happened.

2           What else do we have by way of Jerome  
3 Ranger's phone calls? We have at 10:34 in the  
4 morning -- and you recall the Circle K time frame  
5 in Phoenix, and we'll cover that in just a bit.  
6 I've got a little summary chart that shows you  
7 those events that plug into this.

8           At 10:34 in the morning, an outgoing call,  
9 Jerome Ranger is calling Ghermon Tucker. This goes  
10 back and forth. Jerome Ranger again at 11:23, and  
11 thereafter he's calling Mr. Tucker numerous times.

12           And later Ja'Cory Ranger and Jerome Ranger  
13 at 4:08, connecting back and forth with each other  
14 shortly before their arrests on the freeway up by  
15 Casa Grande.

16           Also on Exhibit 113, those are the calls  
17 from February 4. What do we have connecting  
18 Mr. Jerome Ranger to anyone back on February 4?  
19 Again, this is a synopsis that I pulled from the  
20 Exhibit 113.

21           Jerome Ranger at 1:01 a.m. calling Mayco.  
22 Again, no connection, but what does that show you?  
23 It shows Jerome Ranger connecting with Mayco, who  
24 went to that meeting on 2/4, where Mr. Tucker  
25 appears and talks about the 65 keys.

1           2/4 also, Jerome Ranger at 2:14 p.m., and  
2 again, at 2:31, Mr. Tucker, again, incoming calls  
3 to Jerome Ranger.

4           Mr. Young talked about a party that they  
5 were going to have and the great pig parties the  
6 Mexicans were going to have to celebrate all this.  
7 In the 2/4 conversation, recorded meeting, the  
8 conversation about where you're going to go after  
9 this kidnapping and home invasion takes place that  
10 took place up in Phoenix.

11           This is Chivo. "No, we're going to take  
12 two cars over there." Obviously this is early on,  
13 and things evolved from there. "At that time, are  
14 you going to come back here or are you going to  
15 hide over there?" I submit to you "over there"  
16 being in Tucson.

17           "No, right away."

18           "No, we'll leave here. We're from here."

19           "No, no, no, no, but are you bringing all  
20 the stuff here?"

21           "We'll bring it here," says Mayco.

22           There is no party that's going to take  
23 place in Tucson. You can imagine, kidnapping and  
24 all that involved, there was no party going on.  
25 It's not a matter of choosing your friends. It's a



1 matter of choosing your business associates.

2           The jury instruction you're going to get  
3 about withdrawing from the conspiracy, let's talk  
4 about that for a minute. The Court will give you  
5 that instruction, and you'll have that in  
6 deliberations to see if the people involved in this  
7 series of events withdrew from it, as is legally  
8 required.

9           The CS, March 2nd, you recall the CS  
10 talked about the people inside the warehouse are  
11 starting to leave, and he had to get them back  
12 inside, per the phone call from his FBI people on  
13 the outside, so they could make the arrests.

14           He, the CS, is telling them, "More people  
15 arrived with guns." And this is important for you  
16 when you consider the withdrawal, so look to this  
17 Exhibit 44-B when you consider the withdrawal.

18           Mayco -- and again, here they're told by  
19 the CS, "More people just arrived with guns." So  
20 what are you thinking? You're a home invader.  
21 You're Mayco. You're the other people inside the  
22 warehouse. Well, let's see what did happen and  
23 what they discussed.

24           Mayco, "Dude called. Five more fools are  
25 there. So scram, huh?"

1 Gollito, "Yeah."

2 Gollito again, "With guns?"

3 "Yeah, man," said the CS.

4 Chivo, "Let's figure out a way to do  
5 this." "Let's figure out a way to do this."

6 Gollito, "Yeah, yeah."

7 Mayco, "Well, I'll call you. I'll call  
8 you in half an hour."

9 It appears that this is a phone call with  
10 Mayco on the phone while they're in the warehouse.

11 Yovani, "We just have to go by in our  
12 cars," and that's to check out the site, the home  
13 invasion site.

14 Gollito, "Shall we go?"

15 Chivo, "Let's go."

16 Chivo, "So let's go look at the house  
17 right now and we can see what's going on."

18 Yovani, "It's not like we can just go in  
19 without planning." Smart guy, at least up to a  
20 point.

21 Mayco, "Or we can all go in quickly and go  
22 vroom" here's Mayco with his connections saying  
23 what he and his people are going to do after he  
24 hears there's five more people showing up with guns  
25 on top of the ones that were already there, the

1 six. What does that tell you?

2 Mayco, "It's not like they're going to see  
3 us."

4 Yovani, "It's not another job."

5 "We can all go in" -- this is Andy. "We  
6 can all go in wearing, like, everyone wearing  
7 black." Everyone wearing black. Well, we've seen  
8 the sweatshirts, and I'm not going to make a big  
9 issue of them, but there were a lot of black  
10 sweatshirts in the cars of the defendants' who were  
11 picked up on the freeway with all these armaments.  
12 "We can all go in wearing black."

13 "And yeah, but the problem is my cousin,  
14 man."

15 Mayco, "But they're going to show the  
16 picture to all those guys right now."

17 Yovani, "One less cousin."

18 So what's Mayco saying they're going to  
19 do? I'm going to -- here's this 11 people inside  
20 the target house, and he's saying I'm going to go  
21 show the picture to those guys right now. Are they  
22 withdrawing?

23 Jorge testified about this particular  
24 event, about when he got told that the people were  
25 stopped. "I told them they got caught. They are

1 like, so what do we do? Well, I'm leaving, I don't  
2 know. They're like, like, man, like, you know,  
3 like, not that good, like, not feeling that happy."

4 Well, you can imagine yourselves being in  
5 the position of people that brought all this stuff  
6 to the home invasion party not being happy. They  
7 traveled all the way from Phoenix, brought the  
8 water and all the other stuff. They weren't  
9 happy.

10 Did they believe Jorge? Obviously they  
11 did not want to believe Jorge because of what they  
12 came ready to take with the million dollars plus in  
13 bounty that they were going to seize from that  
14 house.

15 We talked a little bit ago about Ja'Cory  
16 Ranger. Let's go to Mr. Ghermon Tucker. We talked  
17 about him a lot already, about 2/4 and how he was  
18 at the planning meeting and the other events.

19 We know he and Jorge were together at the  
20 Circle K., 61-G, as in George, that he was in the  
21 right passenger, front passenger side of the  
22 vehicle.

23 We're told by defense counsel in  
24 summation, well, they didn't have guns when they  
25 got out of the car. Well, you know, when you're

1 pulled over in a vehicle, it works a certain way.  
2 Sirens go. There is a few seconds that transpire  
3 from when the lights first come on and the sirens  
4 start and you pull over.

5           What did Mr. Tucker do? We know what he  
6 did. You may have forgotten about the cell phone  
7 that was in the seat, in the glove box where he was  
8 positioned, Mr. Tucker, but in that few seconds or  
9 a minute or whatever it took to pull over and get  
10 stopped, Mr. Tucker's phone was found inside the  
11 glove box.

12           He had enough time, he thought enough  
13 insight and foresight to take the SIM card out of  
14 it so maybe it wouldn't connect back to him. He  
15 was wrong. The SIM card was on the floor by his  
16 feet.

17           So there was a little bit of advanced  
18 planning before the police actually pulled him out  
19 of the car, and that shows a state of mind of  
20 Mr. Tucker back on March 2nd. He's trying to  
21 distance himself from things that would connect him  
22 back to what happened. His SIM card was on the  
23 floor of the car. His phone was in the glove box,  
24 per the testimony.

25           We have a whole boatload of calls, and

1 again, I just took the ones involving Mr. Tucker  
2 from Exhibit 113. First dealing with 2/4, I'm not  
3 going to kick that horse anymore, but the calls lay  
4 out a very clear picture, and when you go through  
5 your time line analyzing Exhibit 113 as to  
6 Mr. Tucker, you will see the picture that was  
7 painted and how he connects to Jerome Ranger, Mayco  
8 on numerous times, starting in the wee hours of the  
9 morning at 12:30, 12:30 a.m., going down through 12  
10 o'clock, one o'clock in the morning, all the way  
11 through until 11:55 in the morning, where  
12 Mr. Tucker and Mayco are going back and forth on  
13 the phone.

14 And again, that's on 2/4, leading right up  
15 to the entrance into the meeting at 11:55, and the  
16 calls by Jerome Ranger to Mr. -- from Ghermon  
17 Tucker a little bit later that afternoon.

18 Exhibit 114, again, I extracted the phone  
19 calls involving Mr. Tucker, which you can do as  
20 you're analyzing each of the defendants, if you see  
21 it appropriate.

22 What do we have on 2/14 -- I'm sorry -- on  
23 March 2nd, Exhibit 114? Starting at one o'clock in  
24 the morning, Ja'Cory Ranger and Mr. Tucker going  
25 back and forth, Mayco coming into the picture at

1 7:46 in the morning and continuing up through 9:41  
2 in the morning on March 2nd with Mr. Tucker.

3 Ja'Cory Ranger then at 10:40 or at 10:10,  
4 rather. Mayco, Ja'Cory, Jerome Ranger at 10:26.  
5 At 10:34, Jerome Ranger again and a whole series  
6 of, as we have talked about, calls with Ja'Cory.  
7 Then Mayco with Mr. Tucker on March 2nd.

8 If you want to see what each person is  
9 doing back on March 2nd, you can look at this  
10 analysis and see how it fits. And what's pretty  
11 fitting. Here the arrests take place. I believe  
12 it's at 2:24 in the afternoon on March 2nd.

13 Now what do you do if you're Mr. Tucker?  
14 You came prepared for a certain type of event, and  
15 you're not happy. Who do you connect back with but  
16 Mayco, your connection from 2/4, and with all the  
17 phone calls on 3/2.

18 Ja'Cory Ranger. We have a whole boatload  
19 of phone calls here, and I'm not go to go through  
20 them all because it would take too much time. On  
21 March 2nd, a whole series of calls. Ja'Cory first  
22 with his brother at 12 o'clock and shortly  
23 thereafter. Incoming from Ghermon Tucker at one  
24 o'clock, going back and forth. Mayco plugs in at  
25 10:20 in the morning with Ja'Cory Ranger, an

1 outgoing call. Again, that's at 10:20.

2 Mayco, again, if you look down to push-to-  
3 talk, at 10:40 in the morning, an outgoing from  
4 Mayco to Ja'Cory Ranger that lasts one minute and  
5 37 seconds, Mayco, the one who was caught in the  
6 warehouse here in town.

7 Again, a bunch of calls. Mayco calling  
8 Ja'Cory Ranger at 10:49, Ja'Cory plugging in at  
9 10:50. These calls paint a very, very clear  
10 picture about the connections between the parties  
11 as all these events are going on in Phoenix, before  
12 they leave, and then once they get down here to  
13 Tucson.

14 Mayco, for example, at 1:01 in the  
15 afternoon, outgoing to Ja'Cory, 40 seconds. Mayco  
16 again at 1:08 and 1:11. One is Ja'Cory calling  
17 Mayco at 1:11 in the afternoon. Ja'Cory calling  
18 two minutes later to Ghermon Tucker. Mayco again  
19 calling Ja'Cory Ranger at 1:18, 1:41, and 2:04.  
20 And Ja'Cory calling his brother at 4:08 and 4:09,  
21 just before they get stopped here in Tucson.

22 In your analysis in going through there --  
23 and I'm not going to go through any of this with  
24 you, but I'm just showing you that you can do it.

25 Exhibit 113, we extracted all of Mayco's



1 phone calls back on that date, and again on March  
2 2nd, showing all the connections between Ja'Cory  
3 Ranger, Mr. Tucker, and others throughout the day.

4 And what's important too as you're going  
5 through this, because you'll have a complete list,  
6 you can see Gregorio, Gollo, outgoing to Mayco at  
7 1:58 in the afternoon, and we know Gollo is Mr. Big  
8 in this thing, pulling the strings from Phoenix,  
9 because he sent his kid down here. He had  
10 immigration issues and didn't want to put himself  
11 at risk.

12 We have certain phone charts that we  
13 talked about, and one of them, Exhibit 115, you  
14 were told that there weren't any recordings made  
15 between the black defendants and the CS, but when  
16 certain things were extracted from phones -- and  
17 you'll have this Exhibit 115, 115, with you.

18 This is Ja'Cory Ranger texting to Ghermon  
19 Tucker at 10:32 in the morning back on March 2nd.  
20 "Hit me ASAP. We going to Tucson in 30 minutes.  
21 Your people just left me. They ready."

22 We have a little summary chart -- we may  
23 have to transition back to Nicole -- which lay out  
24 certain events in the phone calls to lay out some  
25 time frames for you.

1           Starting with -- this is March 2nd, and  
2   you may want to take note of this, because when  
3   you're looking at the time line of all these calls,  
4   I know you have in your notes when certain things  
5   take place, but in order to aid you in analyzing  
6   all this data -- for example, we show an outgoing  
7   phone call from Ja'Cory Ranger at 11:26 to Ghermon  
8   Tucker. At 11:28 defendants are seen at the Circle  
9   K on Broadway in Phoenix buying drinks, ice,  
10   multiple pairs of gloves. And that's Exhibits  
11   14-A.1 and 14-A.5.

12           So again, it gives you some time frame,  
13   when you put all these in the chronology, about how  
14   these things fit together with the phone calls  
15   leading to the Circle K in Phoenix before they came  
16   down here, about the connections going back and  
17   forth.

18           So forgetting for a moment what we heard  
19   from Jorge about what happened, the phone calls  
20   tell you exactly what happened as they lead up to  
21   the Circle K and the events there.

22           Next page, please. At 1:18 in the  
23   afternoon, Jorge, Yovani, and Mayco meet members of  
24   the Mexican home invasion crew at the Circle K in  
25   Marana. That's 1:18 p.m.

1           Leading up to that, we have Mayco, an  
2 outgoing call to Ja'Cory Ranger at it looks like  
3 1:18 or 1:16. You have additional phone calls  
4 right after that with Mayco, outgoing to Ja'Cory  
5 Ranger at 1:41; Gollo, outgoing call to the CS at  
6 1:54; Mayco calling at 2:04 to Ja'Cory Ranger.

7           At 2:05, you have the red Expedition,  
8 Escalade and Commander and the silver Murano seen  
9 at the Food City, Exhibit No. 29. So as you're  
10 making notes, when you look at Exhibit 29, that's  
11 the overview when you saw the certain vehicles  
12 pointed out in the parking lot by Jorge.

13           At 2:19, ground surveillance observes the  
14 red Expedition and Escalade parked side by side at  
15 Food City. That's, again, the ground units looking  
16 at the Food City parking lot.

17           At 2:24, Mayco, Yovani and other Mexican  
18 members are arrested at the warehouse. A picture  
19 of the cousin was found in Mayco's back pocket and  
20 a map of the house in Mayco's hand.

21           2:34, the red Expedition and black  
22 Escalade leave Food City. 2:40, the Expedition and  
23 Escalade pull into the Circle K on Congress, and  
24 that's Exhibit No. 62-B, as in boy, and 62-C.

25           Again, so you have those time frames, you

1 see Mr. Tucker making phone calls at that same time  
2 frame, at 2:44, or four minutes later.

3 2:57, the Expedition and Escalade leave  
4 Circle K and head west towards Phoenix on I-10,  
5 62-D, as in dog.

6 At 3:12, the defendants return in both  
7 cars to Food City on Sixth Avenue, drive through  
8 the parking lot and then return westbound on I-10  
9 to return to Phoenix. They came for an event, and  
10 it wasn't happening, and they weren't happy. They  
11 were looking to see if they couldn't resurrect this  
12 and that they weren't being stiffed by the people  
13 that they came to town with.

14 The defendants made certain statements,  
15 and you recall the testimony that took place here,  
16 and what I did was put a little -- I had a synopsis  
17 of what was testified to here put together.

18 Mr. Tucker was interviewed by the FBI here  
19 in town back on the evening of March 2nd. He  
20 advised he lives with his mother in Phoenix. He  
21 came to Tucson as a passenger in a Ford  
22 Expedition.

23 He was shown photographs of Chivo, Gollo,  
24 and Seco, also known as Mayco. So he was shown a  
25 photograph of Seco at this interview back on March

1 2nd by the FBI and was asked if he knew them or had  
2 ever met any of them. He denied knowing or meeting  
3 any of the people.

4 So here he is shown a photograph of Mayco,  
5 the person that he is in phone contact with many,  
6 many times on 2/4 and other times on 3/2, as we've  
7 talked about, but he says he doesn't know him.

8 He was asked if he met them at a park.  
9 Well, perhaps it's -- you heard about the -- it  
10 wasn't a park but rather a trailer park. And he  
11 denied that as well.

12 Jerome Ranger was also interviewed, and  
13 again, I put together a little synopsis of what was  
14 testified to about what he told the FBI back on  
15 March 2nd.

16 At 12 o'clock he left Tucson -- he left  
17 the residence for Tucson. He was driving his  
18 Expedition with three people riding with him. The  
19 purpose was just to check out Tucson. So here he  
20 is telling the FBI that the reason that they came  
21 here was to check out our city.

22 He had been to Tucson only once before, a  
23 business trip for the moving company. They were  
24 planning on stopping by the mall and to see a  
25 couple of friends in Tucson. That's why they came

1 back on March 2nd, or so he claimed when he lied to  
2 the FBI.

3 When they departed Phoenix, they stopped  
4 for some gas and sodas. Well, we know about that.  
5 We've seen that at the Circle K in Phoenix. When  
6 they reach Marana -- so here he is, talking about  
7 reaching Marana -- he was telephonically contacted  
8 and advised to exit at Marana and pull into a gas  
9 station. He met four Hispanic males driving a  
10 smaller Nissan vehicle.

11 So here he is claiming he's just coming  
12 down here to check out Tucson, and yet he's hooking  
13 up with four Hispanic males in Marana before they  
14 come into our town.

15 He recalled -- he recalled meeting one of  
16 the Hispanic males about four or five months ago in  
17 Phoenix. He then followed the Hispanic male to the  
18 Food City parking lot. After arriving, the  
19 Hispanic males left in their vehicle. He waited 20  
20 to 30 minutes. They never returned.

21 He left Food City to go visit a friend but  
22 stated the friend was not home. We know that's  
23 also a lie. The surveillance had him eyeballed  
24 from the air and otherwise at the Food City, and  
25 they never went to visit any friend. Again, he was

1     lying to the FBI agent back on March 2nd.

2             He returned to Food City to determine if  
3     the Hispanic males had returned, which they had  
4     not. Ranger then departed the area and began to  
5     drive back toward Phoenix. They were stopped by  
6     the police.

7             He was asked if he was aware of any  
8     firearms. He stated that he had an AK-47 in the  
9     back. He bought his AK-47 from a private citizen.  
10    He said that with all of the news of the shootings  
11    here in Tucson, he decided to bring the AK-47 with  
12    him to our city.

13            MR. COOPER: Judge, I'd like to object and  
14    ask to approach, please.

15            (The following proceedings occurred at the  
16    bench.)

17            MR. COOPER: Your Honor, that's the  
18    seventh time he's referred to "our city," and I let  
19    it go for seven times. It is a blatant attempt to  
20    demonstrate that these criminals and hooligans are  
21    coming to Tucson, to a place where they should not  
22    come.

23            THE COURT: Don't say "our city" again.

24            MR. LACEY: I won't.

25            (End of bench conference.)

1 THE COURT: You may continue.

2 MR. LACEY: Thanks, Your Honor.

3 He stated he carries his AK-47 for  
4 personal protection. He was asked if there were  
5 any other firearms in the vehicle, and he stated  
6 someone else was carrying a pistol.

7 He was asked if he was aware of the body  
8 armor in his vehicle. Again, this is Mr. Jerome  
9 Ranger in the red Ford Expedition. He stated he's  
10 familiar with the body armor in the vehicle. He  
11 purchased the body armor about two weeks ago from a  
12 Mexican guy off the streets, paid 250 each.

13 When he purchased the armor, he put it in  
14 the back seat of his vehicle. He forgot the armor  
15 was inside the vehicle until they departed for  
16 Tucson. He said he purchased the body armor for  
17 protection.

18 Well, when you're getting body armor for  
19 protection, as we heard from defense counsel, you  
20 don't buy two. If you have people going in to do a  
21 home invasion, if there is more than one person  
22 going through the door, there is more reason to  
23 have more than one vest. Again, look at all the  
24 facts in reviewing the evidence in this case. He  
25 said he purchased the body armor for protection.



1 Well, indeed.

2 He was asked about whether he knew  
3 anything about a warehouse or a home invasion and  
4 he said he did not.

5 The Court's going to give you certain jury  
6 instructions. Count 1 is the conspiracy. From  
7 December 29 -- and again, you're going to have a  
8 copy of this with you in deliberations. When I  
9 finish, the judge will read these instructions to  
10 you, as we're reviewing them here, but more  
11 comprehensively than I'm going to cover.

12 First, there was an agreement between two  
13 or more persons to commit possession with intent to  
14 distribute cocaine, as charged in the indictment.  
15 So it's an agreement. Chivo and Gollo or Mayco and  
16 Mr. Tucker agreed to commit a violation, the  
17 violation to possess with intent to distribute  
18 cocaine, as they believed back on March 2nd.

19 Second, the defendants became members of  
20 the conspiracy knowing of at least one of its  
21 objects and intending to help accomplish it. Well,  
22 that's obvious as to what they were trying to  
23 accomplish and how they hoped to get there.

24 Third, one of the members of the  
25 conspiracy performed at least one overt act for the

1 purpose of carrying out the conspiracy, with all of  
2 you agreeing on a particular overt act that you  
3 find was committed.

4 An overt act, for example, coming to  
5 Tucson with vests and automatic -- semiautomatic  
6 rifles, or Mayco going to a warehouse meeting and  
7 getting a picture he's going to bring back to his  
8 people.

9 A conspiracy is a kind of criminal  
10 partnership, an agreement of two or more persons to  
11 commit one or more crimes. The crime of conspiracy  
12 is the agreement to do something unlawful. It's  
13 the agreement to do something unlawful. It does  
14 not matter whether the crime was agreed on --  
15 whether the crime agreed upon was committed.

16 So if it was a sting operation by the FBI  
17 to get people involved in this kind of activity and  
18 it couldn't actually happen in reality, that  
19 doesn't matter. It was an agreement to do  
20 something unlawful. It does not matter whether the  
21 crime agreed upon was committed.

22 For a conspiracy to have existed it is not  
23 necessary that the conspirators made a formal  
24 agreement or that they agreed on every detail of  
25 the conspiracy. It is enough, however, that they

1 simply met -- it is not enough, however, that they  
2 simply met, discussed matters of common interests,  
3 acted in similar ways or perhaps helped one  
4 another.

5           You must find that there was a plan to  
6 commit at least one of the crimes alleged in the  
7 indictment as an object of the conspiracy, with all  
8 of you agreeing as to the particular crime which  
9 the conspirators agreed to commit.

10           One becomes a member by willfully  
11 participating in the unlawful plan with the intent  
12 to advance or further some object or purpose of the  
13 conspiracy, even though the person does not have  
14 full knowledge of all the details of the  
15 conspiracy.

16           For example, Mr. Tucker may have been more  
17 knowledgeable about what happened or what was going  
18 to happen because of the 2/4 meeting he went to and  
19 may not have conveyed all the details to the  
20 Rangers and others he was involved with.

21           Furthermore, one who willfully joins an  
22 existing conspiracy is as responsible for it as its  
23 originators. For example, people who came to  
24 Tucson on 3/2 with the assault rifles and weren't  
25 back at the 2/4 meeting, they joined an existing

1 conspiracy that had already begun back on 2/4 with  
2 Chivo, Gollo, Mayco, and Mr. Tucker.

3           They don't have to have been members back  
4 then. They could have joined on March 2nd when  
5 they decided to come to Tucson with these -- with  
6 this armament, and that's when they joined an  
7 existing conspiracy, and they're guilty as if they  
8 joined it back on February 4th.

9           An overt act does not have to be  
10 unlawful. Example, driving to Tucson with  
11 weapons. A lawful act may be an element of the  
12 conspiracy if it was done for the purpose of  
13 carrying out the conspiracy. The Government is not  
14 required to prove that the defendant personally did  
15 one of the overt facts.

16           Once a person becomes a member of a  
17 conspiracy, that person remains a member until that  
18 person withdraws from it. There will be an  
19 instruction about withdrawal the Court's going to  
20 talk to you about. One may withdraw by doing acts  
21 which are inconsistent with the purpose of the  
22 conspiracy -- so they have to do something  
23 inconsistent with the purpose of the conspiracy --  
24 and by making reasonable efforts to tell the  
25 co-conspirators about those acts.

1           You may consider any definite positive  
2 step that shows the conspirator is no longer a  
3 member of the conspiracy to be evidence of the  
4 withdrawal.

5           When you're frustrated because the person  
6 that was going to show you where the house was that  
7 you were going to do the home invasion on gets  
8 arrested and you can't perform the act, that's not  
9 withdrawal. That's simply a frustration that you  
10 have to experience, but it's not a withdrawal, as  
11 the Court will instruct you when you look at the  
12 facts that apply to the withdrawal jury  
13 instruction.

14           The defendant is charged in Counts 3 and 4  
15 of the indictment with possession of a firearm in  
16 furtherance of a drug trafficking crime, in  
17 violation of 924(C). The Government must prove  
18 beyond a reasonable doubt: First, the defendant  
19 committed the crime of conspiracy to possess with  
20 intent to distribute cocaine, as charged in Count  
21 1.

22           So what we have here is Count 3 of the  
23 indictment. Count 1 of the indictment is the  
24 conspiracy count. Count 2 is the attempt  
25 violation. On March 2nd in Tucson, these

1 defendants and others did knowingly and  
2 intentionally attempt to possess with intent to  
3 distribute five kilograms or more of cocaine, that  
4 is, approximately 65 kilograms, a Schedule II  
5 controlled substance.

6 Count 3, on March 2nd, at or near Tucson,  
7 these defendants and others knowingly possessed  
8 firearms and aided and abetted, counseled,  
9 commanded, induced, and procured others to possess  
10 these firearms, in furtherance of a drug  
11 trafficking crime for which they may be prosecuted  
12 in a Court of the U.S.

13 That is -- so Count 3, this conspiracy --  
14 this particular gun violation connects back to  
15 Count 1 of the drug conspiracy. In furtherance of  
16 a drug trafficking crime for which they may be  
17 prosecuted in a Court of the U.S., that is  
18 conspiracy to possess with intent to distribute a  
19 controlled substance, as alleged in Count 1 of the  
20 indictment.

21 So that's Count 3, the gun violation that  
22 attaches to Count 1, the conspiracy.

23 Count 4, is the same weapons, but as  
24 you'll see, these defendants were charged with the  
25 same weapons in furtherance -- that they used them

1 or had possessed them in furtherance of a drug  
2 trafficking crime as alleged in Count 2 of the  
3 indictment, in violation of 18 U.S. Code section  
4 2.

5 So the first count, Count 3, attaches to  
6 Count 1. Count 4 attaches to Count 2. And that's  
7 the attempt violation in Count 2. Count 4, the gun  
8 violation, connects back to that particular statute  
9 and count.

10 Second, a defendant knowingly possessed  
11 these weapons; third the defendant possessed the  
12 firearms in furtherance of the crime of a  
13 conspiracy, as charged in Count 1, to possess with  
14 intent to distribute cocaine, or Count 2, attempt  
15 to possess cocaine with intent to distribute.

16 A person possesses a firearm if the person  
17 knows of its presence and has physical control of  
18 it or knows of its presence and has the power and  
19 intention to control it. It's not necessary for  
20 you to find the defendant possessed more than one  
21 firearm.

22 Now, an important instruction -- and I  
23 know this is tough, because it's the law, and we  
24 may deal with it on a daily basis, and some of us  
25 for decades and others not so long, but it's not an

1 easy concept to grab ahold of, but you're going to  
2 have these back in deliberations, the aiding and  
3 abetting statute that applies to Counts 3 and 4 of  
4 the gun violations.

5 A defendant may be found guilty of  
6 knowingly possessing a firearm in furtherance of a  
7 drug trafficking crime even if the defendant  
8 personally did not commit the act or acts  
9 constituting the crime but aided and abetted in its  
10 commission.

11 To prove a defendant guilty of aiding and  
12 abetting, the Government must prove: First,  
13 knowingly possessing the firearm was committed by  
14 someone.

15 So for example, Mr. Tucker could have  
16 possessed a weapon or Mr. Ranger, one of the  
17 Rangers, but if they aided and abetted, they drove  
18 the car or brought the vest or whatever it may have  
19 been, then they're involved in that as well, even  
20 if they didn't possess the gun themselves.

21 Second, the defendant knowingly and  
22 intentionally aided, counseled, commanded, induced,  
23 or procured that person to commit each element of  
24 knowingly possessing a firearm.

25 Third, the defendant acted before the



1 crime was completed. It's not enough that the  
2 defendant merely associated with the person  
3 committing the crime or unknowingly or  
4 unintentionally did things that were helpful to the  
5 person or was present at the scene of a crime.

6 The evidence must show beyond a reasonable  
7 doubt the defendant acted with the knowledge and  
8 intention of helping that person commit the crime  
9 of knowingly possessing a firearm in furtherance of  
10 a drug trafficking crime.

11 The Government is not required to prove  
12 precisely which defendant actually committed the  
13 crime and which aided and abetted.

14 Count 2. Mere presence at the scene of a  
15 crime or mere knowledge that a crime is being  
16 committed is not sufficient to establish the  
17 defendant committed the crime of attempted  
18 possession with intent to distribute cocaine. The  
19 defendant must be a participant and not merely a  
20 knowing spectator. The defendant's presence may be  
21 considered by the jury, along with other evidence  
22 in the case.

23 For example, traveling to Tucson with  
24 guns, bulletproof vests, gloves, et cetera, would  
25 show knowledge and participation by those that came

1 down here.

2           You have heard testimony from Antonio  
3 Gutierrez, a witness who received compensation --

4           THE COURT: Slow down.

5           MR. LACEY: Sorry.

6           You should consider the extent to which or  
7 whether his testimony may have been influenced by  
8 the compensation he received. In addition, you  
9 should examine the testimony of Gutierrez with  
10 greater caution than that of other witnesses.

11           For example, look to the phone calls of  
12 2/4. Look at the meetings taped on 2/4 and 2 --  
13 and 3/2. The guns, the vests, the phone calls.

14           You've heard testimony that a witness has  
15 previously been convicted of a crime. You may  
16 consider this evidence only as it may affect the  
17 believability -- his believability, Jorge's, as a  
18 witness.

19           Again, if you can't corroborate it with  
20 the exhibits we've covered, don't consider it. I'm  
21 telling you, even though that's not the law, I'm  
22 telling you to take it to an extreme as far as what  
23 to take off the table from Jorge.

24           Ja'Cory limped. Water in the truck.  
25 Three defendants -- the three defendants and others

1 came to Tucson. Taped meetings. Numerous phone  
2 contacts. Jorge in Food City, Circle K.

3 This matter is for you to determine  
4 whether the Government has proven the defendants'  
5 guilt beyond a reasonable doubt. The defendants'  
6 guilt or innocence is not affected by the fact that  
7 another person or persons might have participated  
8 or cooperated in the crime and is not now on trial.

9 I'm going to finally leave you with this.  
10 You've seen the work that goes into this by all the  
11 parties involved in this, and we all take our jobs  
12 very seriously, and for good reason.

13 The reason all these people came to Tucson  
14 back on March 2nd was for either 50 or 65 kilos of  
15 coke, although most of it was 65 kilos, as you  
16 heard from the recorded testimony, the recordings  
17 back on both February 4th and March 2nd. 65  
18 kilograms is about \$20,000 per kilograms, about  
19 \$1.3 million. That's what they thought they were  
20 going to be getting when they came back on March  
21 2nd.

22 Also, in order to make it more enticing,  
23 the CS threw another factor on the table, that the  
24 buyer for the cocaine was going to be at the house  
25 and bringing half the money or 700,000. He also,

1 to make it even more enticing, said that the drug  
2 trafficking kingpin's son was wearing a  
3 Presidential Rolex and some other items of value  
4 totaling about \$2 million.

5           So when you wonder why people didn't leave  
6 right away after they drove from Phoenix and had a  
7 certain purpose in mind and why they left Food City  
8 even after hearing that, hey, they got stopped and  
9 going to the Circle K and being told, again, they  
10 got arrested, they still got on the freeway, got  
11 off at Prince Road, came back around to Food City  
12 and cruised through the parking lot, looking to try  
13 and score this \$2 million bounty that they were  
14 told was waiting for them.

15           It's been a long haul, and again, I want  
16 to thank you on behalf of all of us for the  
17 integral role you play in our system. We can only  
18 function and do our jobs as prosecutors or defense  
19 attorneys and put the facts before you.

20           You then have the hardest job of all, the  
21 hardest job of all, to go back and deliberate and  
22 make a decision based upon the evidence you see in  
23 front of you.

24           I submit to you -- and again, we thank you  
25 in advance. I submit to you that, based upon all

1 the evidence you have and all the circumstantial  
2 evidence you have, the United States has proven  
3 beyond a reasonable doubt the guilt of these  
4 defendants.

5 Thank you.

6 THE COURT: I'm going to need your  
7 attention for about 20 minutes, so I'm going to  
8 give you about a five-minute recess so that you can  
9 listen to me for 20 minutes. Then we're going to  
10 come back, and I'll give you the instructions.  
11 After we do that, though, I'm going to send you  
12 home and let you come back tomorrow and begin  
13 deliberations. All right?

14 So I need a five-minute break. Then I  
15 need 20 minutes.

16 (The jury exits the courtroom.)

17 THE COURT: Counsel, I'm going to ask you  
18 to come here tomorrow morning by, if you wish, by  
19 8:45 to check and make sure all the proper exhibits  
20 are going back to the jury.

21 MR. COOPER: Do you need us here?

22 THE COURT: Only if you want to check and  
23 make sure the proper exhibits are going.

24 MR. COOPER: I absolutely trust Mo.

25 THE COURT: All right. And just so the

1 record is clear, if they ask to hear any of the  
2 taped conversations, I'll have them brought to the  
3 courtroom, and Nicole and Mo will play them.  
4 Nobody else will be allowed to be around or say  
5 anything while they're being played.

6 (Off the record.)

7 (The jury enters the courtroom.)

8 THE COURT: Show the jury's returned back  
9 to the courtroom, the presence of all counsel and  
10 defendants.

11 At this point in time, I'm going to once  
12 again point you to your black books.

13 Before I tell you this, I want to make  
14 sure I don't forget to tell you something. I have  
15 instructed that the guns be taken away, so they  
16 will not be back in the jury room with you unless  
17 you specifically ask for them. Okay?

18 If you decide that you wish to review  
19 tapes or transcripts that you don't have back there  
20 with you, let Mo know, and then she and Nicole will  
21 play them for you, but neither one of them will be  
22 allowed to talk to you. All right? So laying some  
23 ground rules in case we need them and I forget  
24 them.

25 I want you to turn to the yellow pages and

1 follow along with me.

2           Members of the jury, now that you've heard  
3 all the evidence, it is my duty to instruct you on  
4 the law which applies to this case. A copy of  
5 these instructions will be available in the jury  
6 room for you to consult. In fact, you will all  
7 have your own individual copy.

8           It is your duty to find the facts from all  
9 the evidence in the case. To those facts you will  
10 apply the law as I give it to you. You must follow  
11 the law as I give it to you, whether you agree with  
12 it or not, and you must not be influenced by any  
13 personal likes or dislikes, opinions, prejudice, or  
14 sympathy. That means you must decide the case  
15 solely on the evidence before you. You will recall  
16 you took an oath promising to do so at the  
17 beginning of the case.

18           In following my instructions, you must  
19 follow all of them and not single out some and  
20 ignore others. They are all equally important.

21           You must not read into these instructions  
22 or anything the Court may have said or done any  
23 suggestion as to what your verdict should be. That  
24 is a matter entirely up to you.

25           The indictment is not evidence. The

1 defendants have pleaded not guilty to the charges.  
2 The defendant's presumed to be innocent and does  
3 not have to testify or present any evidence to  
4 presume innocence.

5           The Government has the burden of proving  
6 every element of the charge beyond a reasonable  
7 doubt.

8           And that just reminded me of something  
9 else I wanted to tell you. Where I speak in the  
10 singular or a plural, use whichever one I should  
11 have correctly used, whether it should have been  
12 singular or plural.

13           All right. In reaching your verdict, you  
14 may consider only the testimony and exhibits  
15 received into evidence. Certain things are not  
16 evidence, and you may not consider them in deciding  
17 what the facts are. I will list them for you.

18           Arguments and statements by lawyers are  
19 not evidence. The lawyers are not witnesses. What  
20 they have said in their opening statements, closing  
21 arguments, and at other times is intended to help  
22 you interpret the evidence, but it is not  
23 evidence.

24           If the facts as you remember them differ  
25 from the way the lawyers state them, your memory of



1     them controls.

2             Questions and objections by lawyers are  
3     not evidence. Attorneys have a duty to their  
4     clients to object when they believe a question is  
5     improper under the Rules of Evidence. You should  
6     not be influenced by the question, the objection,  
7     or the Court's ruling on it.

8             Testimony that has been excluded or  
9     stricken or that you have been instructed to  
10    disregard is not evidence and must not be  
11    considered.

12            In addition, some testimony and Exhibits  
13    may have been received only for a limited purpose.  
14    Where I've given a limiting instruction, you must  
15    follow it.

16            Anything you may have seen or heard when  
17    Court was not in session is not evidence. You are  
18    to decide the case solely on the evidence received  
19    at the trial.

20            The evidence from which you are to decide  
21    what the facts are consists of the sworn testimony  
22    of any witness, the exhibits which have been  
23    received into evidence; and any facts to which all  
24    the lawyers have stipulated or agreed.

25            Evidence may be direct or circumstantial.

1 Direct evidence is direct proof of a fact, such as  
2 testimony by a witness about what that witness  
3 personally saw or heard or did.

4 Circumstantial evidence is indirect  
5 evidence. That is, it is proof of one or more  
6 facts from which one can find another fact. You  
7 are to consider both direct and circumstantial  
8 evidence. The law permits you to give equal weight  
9 to both, but it is for you to decide how much  
10 weight to give to any evidence.

11 In deciding the facts in this case, you  
12 may have to decide which testimony to believe and  
13 which testimony not to believe. You may believe  
14 everything a witness says or part of it or none of  
15 it.

16 In considering the testimony of any  
17 witness, you may take into account the opportunity  
18 and ability of the witness to see or hear or know  
19 the things testified to; the witness' memory; the  
20 witness' manner while testifying; the witness'  
21 interests in the outcome of the case and any bias  
22 or prejudice; whether other evidence contradicted  
23 the witness' testimony; the reasonableness of the  
24 witness' testimony in light of all the evidence;  
25 and any other factors that bear on believability.

1           The weight of the evidence as to a fact  
2 does not necessarily depend on the number of  
3 witnesses who testify.

4           Proof beyond a reasonable doubt is proof  
5 that leaves you firmly convinced that the defendant  
6 is guilty. It is not required that the Government  
7 prove guilt beyond all possible doubt. A  
8 reasonable doubt is a doubt based upon reason and  
9 common sense and not based purely on speculation.  
10 It may arise from a careful and impartial  
11 consideration of all the evidence or from lack of  
12 evidence.

13           If after a careful and impartial  
14 consideration of all the evidence you are not  
15 convinced beyond a reasonable doubt that the  
16 defendant is guilty, it is your duty to find the  
17 defendant not guilty.

18           On the other hand, if after a careful and  
19 impartial consideration of all the evidence you are  
20 convinced beyond a reasonable doubt the defendant  
21 is guilty, it is your duty to find the defendant  
22 guilty.

23           A defendant in a criminal case has a  
24 constitutional right not to testify. No  
25 presumption of guilt may be raised and no inference

1 of any kind may be drawn from the fact the  
2 defendant did not testify.

3           You have heard testimony the defendant  
4 made a statement. It is for you to decide whether  
5 the defendant made the statement and, if so, how  
6 much weight to give to it. In making those  
7 decisions, you should consider all the evidence  
8 about the statement, including the circumstances  
9 under which the defendant may have made it.

10           Although the defendants are being tried  
11 together, you must give separate consideration to  
12 each defendant. In doing so, you must determine  
13 which evidence in the case applies to each  
14 defendant, disregarding any evidence admitted  
15 solely against some other defendant.

16           The fact that you may find one of the  
17 defendants guilty or not guilty should not control  
18 your verdict as to any other defendant.

19           An act is done knowingly if the defendant  
20 is aware of the act and does not act or fails to  
21 act through ignorance, mistake, or accident.

22           The Government is not required to prove  
23 that a defendant knew that his or her acts or  
24 omissions were unlawful. You may consider evidence  
25 of the defendant's words, acts, or omissions along

1 with all the other evidence in deciding whether the  
2 defendant acted knowingly.

3 A separate crime is charged against the  
4 defendant in each count. You must decide each  
5 count separately. Your verdict on one count should  
6 not control your verdict on any other count.

7 Now put your fingers right there at the  
8 yellow pages, and we're going to go to the white  
9 sheets that you now have.

10 The defendants are charged in Count 1 of  
11 the indictment with conspiring to possess with the  
12 intent to distribute cocaine, in violation of  
13 Section 841 of Title 21 of United States Code. In  
14 order for the defendants to be found guilty of that  
15 charge, the Government must prove each of the  
16 following elements beyond a reasonable doubt:

17 First, beginning from December 29, 2010,  
18 to on or about March 3rd, 2011, there was an  
19 agreement between two or more persons to commit  
20 possession with intent to distribute cocaine, as  
21 charged in the indictment;

22 And second, the defendants became members  
23 of the conspiracy knowing of at least one of its  
24 objects and intending to help accomplish it; and  
25 third, one of the members of the conspiracy

1 performed at least one overt act for the purpose of  
2 carrying out the conspiracy, with all of you  
3 agreeing on a particular overt act that you find  
4 was committed.

5           A conspiracy is a kind of criminal  
6 partnership, an agreement of two or more persons to  
7 commit one or more crimes. The crime of conspiracy  
8 is the agreement to do something unlawful. It does  
9 not matter whether the crime agreed upon was  
10 committed.

11           For a conspiracy to have existed, it is  
12 not necessary that conspirators made a formal  
13 agreement or that they agreed on every detail of  
14 the conspiracy. It is not enough, however, that  
15 they simply met, discussed matters of common  
16 interest, acted in similar ways, or perhaps helped  
17 one another.

18           You must find that there was a plan to  
19 commit at least one of the crimes alleged in the  
20 indictment as an object of the conspiracy, with all  
21 of you agreeing as to the particular crime which  
22 the conspirators agreed to commit.

23           One becomes a member of a conspiracy by  
24 willfully participating in the unlawful plan with  
25 the intent to advance or further some object or

1 purpose of the conspiracy, even though the person  
2 does not have full knowledge of all the details of  
3 the conspiracy.

4 Furthermore, one who willfully joins an  
5 existing conspiracy is as responsible for it as the  
6 originators. On the other hand, one who has no  
7 knowledge of the conspiracy but happens to act in a  
8 way which furthers some object or purpose of the  
9 conspiracy does not thereby become a conspirator.

10 Similarly, a person does not become a  
11 conspirator merely by association with one or more  
12 persons who are conspirators, nor merely by knowing  
13 that a conspiracy exists.

14 An overt act does not itself have to be  
15 unlawful. A lawful act may be an element of a  
16 conspiracy if it was done for the purpose of  
17 carrying out the conspiracy. The Government is not  
18 required to prove the defendant personally did one  
19 of the overt acts.

20 The defendants are charged in Counts 3 and  
21 4 of the indictment with possession of a firearm in  
22 furtherance of a drug trafficking crime, in  
23 violation of Section 924(C) of Title 18 of United  
24 States Code.

25 In order for the defendant to be found

1 guilty of that charge, the Government must prove  
2 each of the following elements beyond a reasonable  
3 doubt:

4 First, the defendant committed the crime  
5 of conspiracy to possess with intent to distribute  
6 cocaine as charged in Count 1 or attempt to possess  
7 cocaine as charged in Count 2, which I instruct you  
8 are drug trafficking offenses;

9 Second, the defendant knowingly  
10 possessed -- and I'm not going to read the list of  
11 all those guns; and third, the defendant possessed  
12 the firearms in furtherance of the crime of  
13 conspiracy to possess with intent to distribute  
14 cocaine or attempt to possess cocaine with intent  
15 to distribute.

16 A person possesses a firearm if the person  
17 knows of its presence and has physical control of  
18 it or knows of its presence and has the power and  
19 intention to control it. It is not necessary for  
20 you to find the defendant possessed more than one  
21 firearm.

22 Once a person becomes a member of a  
23 conspiracy, that person remains a member until that  
24 person withdraws from it. One may withdraw by  
25 doing acts which are inconsistent with the purpose



1 of the conspiracy and by making reasonable efforts  
2 to tell the co-conspirators about those acts.

3           You may consider any definitive positive  
4 step that shows the conspirator is no longer a  
5 member of the conspiracy to be evidence of  
6 withdrawal.

7           The Government must prove beyond a  
8 reasonable doubt that the defendant did not  
9 withdraw from the conspiracy before the overt act  
10 on which you all agree was committed by some member  
11 of the conspiracy.

12           I see that there is an instruction that is  
13 missing. I will read it and make sure you have a  
14 copy of it.

15           The defendants are charged in Count 2 of  
16 the indictment with attempted possession with  
17 intent to distribute cocaine, in violation of  
18 Section 841(A)(1) and 846 of Title 21 of United  
19 States Code. In order for a defendant to be found  
20 guilty of that charge, the Government must prove  
21 each of the following elements beyond a reasonable  
22 doubt:

23           First, the defendant intended to possess  
24 cocaine with the intent to distribute it to another  
25 person; and second, the defendant did something

1 that was a substantial step toward committing the  
2 crime.

3         Mere preparation is not a substantial step  
4 toward committing the crime. To constitute a  
5 substantial step, a defendant's act or actions must  
6 demonstrate that the crime will take place unless  
7 interrupted by independent circumstances.

8         To possess with intent to distribute means  
9 to possess with intent to deliver or transfer  
10 possession of a controlled substance to another  
11 person, with or without any financial interest in  
12 the transaction.

13         A defendant may be found guilty of  
14 knowingly possessing a firearm in furtherance of a  
15 drug trafficking crime even if the defendant  
16 personally did not commit the act or acts  
17 constituting the crime but aided and abetted in its  
18 commission.

19         To prove a defendant guilty of aiding and  
20 abetting, the Government must prove beyond a  
21 reasonable doubt: First, knowingly possessed a  
22 firearm -- knowingly possessing a firearm was  
23 committed by someone; second, the defendant  
24 knowingly and intentionally aided, counseled,  
25 commanded, induced, or procured that person to

1 commit each element of knowingly possessing a  
2 firearm; and third, the defendant acted before the  
3 crime was completed.

4 It is not enough the defendant merely  
5 associated with the person committing the crime or  
6 unknowingly or unintentionally did things that were  
7 helpful or was present at the scene of the crime.

8 The evidence must show beyond a reasonable  
9 doubt that the defendant acted with the knowledge  
10 and intention of helping that person commit the  
11 crime of knowingly possessing a firearm in  
12 furtherance of a drug tracking crime.

13 The Government is not required to prove  
14 precisely which defendant actually committed the  
15 crime and which defendant aided and abetted.

16 Mere presence at the scene of a crime or  
17 mere knowledge that a crime is being committed is  
18 not sufficient to establish the defendant committed  
19 the crime of attempted possession with intent to  
20 distribute cocaine. The defendant must be a  
21 participant and not merely a knowing spectator.  
22 The defendant's presence may be considered by the  
23 jury along with other evidence in the case.

24 You have heard testimony from Antonio  
25 Gutierrez, a witness who received compensation from

1 the Government in connection with this case. For  
2 this reason, in evaluating the testimony of Antonio  
3 Gutierrez, you should considerate the extent to  
4 which or whether his testimony may have been  
5 influenced by this factor.

6 In addition, you should examine the  
7 testimony of Antonio Gutierrez with greater caution  
8 than that of other witnesses.

9 You have heard evidence that a witness has  
10 previously been convicted of a crime. You may  
11 consider this evidence only as it may effect the  
12 believability as a witness.

13 The only matter for you to determine is  
14 whether the Government's proved the defendants'  
15 guilt beyond a reasonable doubt. The defendants'  
16 guilt or innocence is not effected by the fact that  
17 another person or persons might have participated  
18 or cooperated in the crime and is not on trial  
19 now. You should not guess about the reason any  
20 other person is absent from the courtroom.

21 You have heard testimony from Antonio  
22 Gutierrez, an informant, who was involved in the  
23 Government's investigation in this case. Law  
24 enforcement officials may engage in stealth and  
25 deception, such as the use of informants and

1 undercover agents, in order to investigate criminal  
2 activities. Undercover agents and informants may  
3 use false names and appearances and assume the  
4 roles of members in criminal organizations.

5           You have heard testimony from Jorge Abel  
6 Medina, a witness who testified in this case. That  
7 testimony was given in exchange for a promise by  
8 the Government that the witness will not be  
9 prosecuted. For this reason, in evaluating the  
10 testimony of Jorge Abel Medina, you should consider  
11 the extent to which or whether his testimony may  
12 have been influenced by this factor.

13           In addition, you should examine the  
14 testimony of Jorge Abel Medina with greater caution  
15 than that of another witnesses.

16           Certain charts and summaries have been  
17 admitted in evidence. Charts and summary are only  
18 as good as the underlying supporting material. You  
19 should therefore give them only such weight as you  
20 think the underlying material deserves.

21           Let's go back to where you left off in the  
22 yellow pages.

23           When you begin deliberations, you should  
24 elect one member of the jury as your foreperson.  
25 That person will preside over deliberations and

1 speak for you here in court. You will then discuss  
2 the case with your fellow jurors to reach agreement  
3 if you can do so.

4 Your verdict, whether guilty or not  
5 guilty, must be unanimous.

6 Each of you must decide the case for  
7 yourself, but you should do so only after you've  
8 considered all the evidence, discussed it fully  
9 with the other jurors, and listened to the views of  
10 your fellow jurors.

11 Do not be afraid to change your opinion if  
12 the discussion persuades you that you should, but  
13 do not come to a decision simply because other  
14 jurors think it is right. It is important that you  
15 attempt to reach a unanimous verdict but of course  
16 only if each of you can do so after having made  
17 your own conscientious decision. Do not change an  
18 honest belief about the weight and effect of the  
19 evidence simply to reach a verdict.

20 Your verdict must be based solely on the  
21 evidence and on the law as I've given to you in  
22 these instruction. However, nothing I have said or  
23 done is intended to suggest what your verdict  
24 should be. That is entirely for you to decide.

25 The punishment provided by law for this

1 crime is for the Court to decide. You may not  
2 consider punishment in deciding whether the  
3 Government's proved its case against the defendants  
4 beyond a reasonable doubt.

5 A verdict form has been prepared for you.  
6 After you've reached unanimous agreement on a  
7 verdict, your foreperson will fill in the form that  
8 has been given to you, sign it with the juror  
9 number, date it, and advise the courtroom deputy  
10 that you are ready to return to the courtroom.

11 If it becomes necessary during  
12 deliberations to communicate with me, you may send  
13 a note to the courtroom deputy signed by your  
14 foreperson or by one or more other members of the  
15 jury.

16 No member of the jury should ever attempt  
17 to communicate with me except by signed writing,  
18 and I will respond to the jury concerning the case  
19 only in writing or here in open court.

20 If you send out a question, I will consult  
21 with the lawyers before answering, which may take  
22 some time. You may continue your deliberations  
23 while waiting for the answer to any question.

24 Remember, you are not to tell anyone,  
25 including me, how the jury stands numerically or

1 otherwise on the question of the guilt of the  
2 defendants until after you've reached a unanimous  
3 verdict or have otherwise been discharged.

4           You will take back for each defendant four  
5 forms of verdict. One for each of the counts  
6 charged. I'm not going to read -- if my math is  
7 correct, that means 12 different forms, but I will  
8 read a representative sample of each of the forms  
9 that applies to each of the defendants.

10           So I have three packets paper clipped  
11 together. I'm going to shuffle them, so I won't  
12 know which one I'm going to read first because I'm  
13 looking at you while I'm doing this. So you can't  
14 -- so there is no impetus you can give to which one  
15 I read first or last.

16           I'm going to omit the formal caption.

17           We the jury find the defendant, Jerome  
18 Noel Ranger, and there is a blank. In that blank,  
19 if you reach a verdict, either write "guilty" or  
20 "not guilty" of conspiracy to possess with intent  
21 to distribute cocaine, as charged in Count 1.

22           The verdict further reads: If you find  
23 the defendant guilty of conspiracy to possess with  
24 intent to distribute cocaine, what do you find the  
25 weight to be beyond a reasonable doubt?



1           There are several choices to be made that  
2 you can make. First one says less than five  
3 kilograms of cocaine. There is a blank for yes.  
4 There is a blank for no. More than five kilograms  
5 of cocaine. There is a blank for yes. There is a  
6 blank for no. 50 kilograms of cocaine. There is a  
7 blank for yes. There is blank for no. 65  
8 kilograms of cocaine. There is a blank for yes.  
9 There's a blank for no. There is a place for the  
10 foreperson's juror number. There is a place for  
11 the date.

12           The next form reads: We the jury find the  
13 defendant, Ghermon Lateke Tucker, and again, there  
14 is blank. In that blank, if you reach a verdict,  
15 write "guilty" or "not guilty" of attempted  
16 possession with intent to distribute cocaine, as  
17 charged in Count 2.

18           It further reads: If you find the  
19 defendant guilty of attempted possession with  
20 intent to distribute cocaine, what do you find the  
21 weight of cocaine to be beyond a reasonable doubt?  
22 Less than five kilograms of cocaine, a blank for  
23 yes, a blank for no. More than five kilograms of  
24 cocaine, a blank for yes, a blank for no. 50  
25 kilograms of cocaine, a blank for yes, a blank for

1 no. 65 kilograms of cocaine, a blank for yes, a  
2 blank for no. A place for the foreperson's  
3 signature -- excuse me -- number and the date.

4           The next reads: We the jury find the  
5 defendant, Ja'Cory Dante Ranger, and again, there  
6 is a blank. In that blank, if you reach a verdict,  
7 either write "not guilty" or "guilty" of possession  
8 of one or more firearms as set forth and charged in  
9 Count 3 during and in furtherance of a drug  
10 trafficking crime, to wit: conspiracy to possess  
11 with intent to distribute cocaine. There is a  
12 place for the foreperson's juror number. There is  
13 a place for the date.

14           The last form of verdict reads: We the  
15 jury find the defendant Ja'Cory Dante Ranger, and  
16 again, there is a blank. In that blank, if you  
17 reach a verdict, either write "not guilty" or  
18 "guilty" of possession of one or more firearms as  
19 set forth and as charged in Count 4 during and in  
20 furtherance of a drug trafficking crime, to  
21 wit: attempted possession with intent to distribute  
22 cocaine. There is a place for the foreperson's  
23 juror number. There is a place for the date.

24           As I've indicated, there are four forms of  
25 verdict for each defendant.

1           You're now going to be discharged as  
2 jurors in just a moment, and I'm going to tell you,  
3 you can take your notes back there with you, and  
4 you can take your copy of the instructions. Mo  
5 will also bring back any exhibits that have been  
6 admitted into evidence, and you can review those  
7 exhibits. If it was not admitted into evidence,  
8 don't bother to ask for it because you can't have  
9 it.

10           As I told you when this case began, we had  
11 two alternate jurors. We're now down to one. And  
12 I told you that only 12 jurors can actually decide  
13 this case. We'll now determine who the alternate  
14 juror is.

15           With all the high technology you've seen  
16 in this courtroom over the last couple of weeks,  
17 the most telling way we have of determining whether  
18 or not someone is going to be an alternate juror is  
19 almost like the old bingo box.

20           Each of these -- each of you have had your  
21 juror number placed on a slip of paper separately,  
22 and all 13 numbers have been placed in. After  
23 appropriately mixing up the ballots, the courtroom  
24 deputy reaches in, pulls out one, and it has a  
25 number of --

1 THE CLERK: Juror No. 46.

2 THE COURT: Who is Juror No. 46? Okay  
3 Juror No. 46.

4 I'm going to ask the following: That you  
5 go home and come back tomorrow at 9:15? 9:30?  
6 9:30. 9:30 tomorrow morning. Leave your notes in  
7 your chair. You'll get them back tomorrow. Leave  
8 your books in your chair. You'll get them back  
9 tomorrow. I will add the additional instruction  
10 that was missing from your packets, so you'll have  
11 that tomorrow also. So I'll ask the 12 of you to  
12 leave now.

13 Juror 46, I want you to hang around for a  
14 few moments.

15 Don't forget the admonitions I've given  
16 you before.

17 (The jury exits the courtroom.)

18 THE COURT: Show the absence of the jury,  
19 presence of Alternate Juror No. 46.

20 First of all, I want to thank you for your  
21 time and for your attention in this case. I want  
22 to assure you that your time has not been wasted.  
23 The reason why we have alternate jurors is because,  
24 if we get down to a number less than 12, we have to  
25 start all over. So that's one reason why we use

1     alternate jurors.

2             I still may need you, so I'm going to ask  
3     you to do a couple of things. Number one, I need  
4     you to leave your notes here. They're not going to  
5     be read by anybody. Number two, when Mo comes  
6     back, she's going to ask you for a telephone number  
7     where she can reach you if she needs to tell you to  
8     come back and deliberate with your fellow jurors.

9             If that happens, at that point in time,  
10    you'll be given your notes back at that point in  
11    time, and you'll begin deliberations anew with your  
12    fellow jurors.

13            If you're not needed to come back, you'll  
14    still be called and told what happened, if  
15    anything, in the case. So either way, you're going  
16    to be contacted, so make sure you give Mo a number  
17    where you can be reached during the day tomorrow.

18            And because you still may be needed,  
19    please do not discuss the case or do any research  
20    about the case or anything at all until you hear  
21    further from the Court. Okay?

22            And I'm going to ask you to leave that  
23    juror badge behind. We're going to recycle it.

24            If we don't meet again here in the  
25    courtroom, if you're not needed to come back,

1 please, if you see myself or the attorneys walking  
2 around in southern Arizona, feel free to say hi.  
3 We're not near as mean as we look. Thank you again  
4 for your time and for your attention. Make sure Mo  
5 has your phone number.

6 If you want to contact attorneys, by the  
7 way, Juror No. 46, if you want to contact the  
8 attorneys, you can find the U.S. Attorney's Office  
9 by going to the blue pages of the telephone book  
10 under U.S. Attorney's Office.

11 You can find Mr. Cooper in -- the yellow  
12 pages and the white pages, Mr. Cooper?

13 MR. COOPER: Yes, Your Honor.

14 THE COURT: You can find Mr. Armstrong in  
15 the same place, correct, Mr. Armstrong?

16 MR. ARMSTRONG: I hope so.

17 THE COURT: And the same with Mr. Young.

18 Thank you again for your time and for your  
19 attention.

20 (The alternate juror exits the courtroom.)

21 THE COURT: Show the absence of the jury,  
22 presence of all counsel and the defendants.

23 Show that each counsel, at the end of the  
24 closing arguments, once again renew their motion  
25 for Rule 29 verdict of acquittal.

1           MR. COOPER: I have another motion as  
2 well.

3           THE COURT: All right. I'll get there.  
4 Don't hurt my train of thought just yet.

5           Mr. Jerome Ranger, I need you back here  
6 tomorrow morning when the jury begins deliberations  
7 at 9:30. Okay?

8           DEFENDANT JEROME RANGER: (Nodding.)

9           THE COURT: Yes, Mr. Cooper?

10          MR. COOPER: I renew my motion for  
11 severance, Your Honor.

12          THE COURT: You did.

13          MR. COOPER: And for a motion for  
14 mistrial, because I really wanted to cross-examine  
15 Mr. Ranger regarding the statement that the  
16 Government used to demonstrate consciousness of  
17 guilt they imputed certainly to him and to all the  
18 defendants, and there are not interlocking  
19 confessions anymore.

20          THE COURT: The motion has been renewed  
21 and denied.

22          Counsel, be within 10 minutes or so once  
23 you get a phone call. Make sure Mo has a phone  
24 number that she can reach you.

25          And if we don't meet again under these

1    circumstances, for me, I've enjoyed that you've  
2    handled yourselves, each of you, in a very  
3    professional way. I think that each of you  
4    represented your respective party very, very well.  
5    I can't ever remember the last time I had five  
6    lawyers talk and all of them made sense.

7               Thank you.

8               MR. COOPER: Thank you, Your Honor.

9               (Proceedings concluded in this matter.)

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



## C E R T I F I C A T E

I, Erica R. Grund, do hereby certify that I took the machine shorthand notes in the foregoing matter; that the same was transcribed via computer-aided transcription; that the preceding pages of typewritten matter are a true, correct, and complete transcription of those proceedings ordered, to the best of my skill and ability.

Dated this 2nd day of January, 2013.

s/Erica R. Grund  
Erica R. Grund, RDR, CRR  
Official Court Reporter